

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) Reconsideration Decision dated July 10, 2024, which determined that the appellant was ineligible for a crisis supplement for hydro.

Specifically, the ministry determined that the appellant was not eligible to receive a crisis supplement because the ministry was not satisfied that the expense was unexpected.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (“Act”) section 5.

Employment and Assistance for Persons with Disabilities Regulation (“Regulation”) section 57.

Part E – Summary of Facts

The hearing took place on July 24, 2024, as a videoconference hearing.

Evidence at the time of reconsideration

As part of the Request for Reconsideration, the appellant submitted a “Request for Utilities Crisis Supplement” application, signed June 5, 2024 which stated:

- 1) she was at risk for disconnection;
- 2) she owed \$767.61 to BC Hydro;
- 3) her “ex has stopped supporting the children.... He has stopped paying child support. He has also been continuing to harass me through the court system which has led to great distress”; and
- 4) she “won’t have power to be able to prepare food, keep my kids healthy and safe” and that this posed an imminent danger to her and her family’s physical health.

The appellant also included:

- a BC Hydro bill dated April 25, 2024 stating that \$529.43 was due immediately.
- a “Final Notice” from BC Hydro dated May 7, 2024, which stated that it was a “final disconnection notice for amount owing \$529.43”.

According to the ministry’s decision, the following is a chronology of events, which is not disputed by the appellant:

- 1) The ministry advised the appellant that she was not eligible for a crisis supplement on June 5, 2024.
- 2) The appellant initiated a Request for Reconsideration on June 20, 2024.
- 3) The ministry completed a reconsideration review on July 2, 2024.

In the reconsideration, the ministry found that:

- 1) The appellant receives disability assistance and therefore meets this eligibility criteria for a crisis supplement.
- 2) The ministry was satisfied that the appellant had no other resources available to pay the hydro bill.
- 3) The ministry was satisfied that that the appellant’s physical health would be in imminent danger if she did not pay her hydro bill.
- 4) The need to pay hydro payments was not unexpected. The ministry stated “the amount on your bill, \$767.61, indicates that this is an ongoing non-payment

problem, and therefore not unexpected". The ministry added that no child support had been reported since the appellant started receiving assistance in May 2022, so a lack of payment should not be unexpected. As well, the ministry noted that the appellant's rent of \$3050 does not leave "much room to pay for utilities, food and other expenses. Therefore, the ministry is not satisfied that your need to pay your hydro bill is due to unexpected circumstances".

The appellant submitted a Notice of Appeal to the Tribunal on July 16, 2024, stating that her "health declined, I had to pay for medical treatments I don't live above my means and I'm raising three children alone. I don't bring in enough to cover basics like hydro when my health suffers."

Testimony at the hearing

The appellant spoke about her current situation.

She is the single parent to three children, and her partner no longer provides any support to raise the children.

Since her original request to the ministry, she has experienced several situations:

- 1) She had health issues and had to undergo a colonoscopy. In preparation for this procedure, the medication she took caused her to soil a mattress and it had to be replaced. As she had no available funds, she arranged financing for a replacement mattress;
- 2) The separation from her partner intensified, with her partner referring to her as an unfit parent, and she paid for an assessment by a psychologist;
- 3) Her children experienced mental stress due to the separation and she put them in therapy to ensure their well-being. One of the children also had an assessment for autism;
- 4) She was compelled to move unexpectedly and with some haste, and this move required a storage unit for her belongings and a moving van to collect and deliver her belongings while she arranged new housing; and
- 5) She was without a home from May 15, 2024 to June 12, 2024 and had to live in her car.

The appellant outlined the following specific expenses:

- 1) Replacement mattress (undisclosed value);
- 2) Assessment by psychologist (undisclosed value);
- 3) Therapy for two of her children (\$157.50 x 2);

- 4) Storage unit March 17-31, 2024: \$267.75;
- 5) Moving van \$160.00 March 17, 2024;
- 6) Packing supplies \$164.72; and
- 7) Storage unit May 14-31, 2024: \$351.71.

She had started to pay down the hydro bill in January 2024 when she could (\$100-\$200 at a time) but could not continue this as issues arose as outlined above.

She approached the local rent bank, a local charity, the Lion's Club, and directly with BC Hydro, but none were able to assist her.

The ministry representative explained the criteria needed for receiving a crisis supplement. The ministry confirmed the criteria included that the expense is unexpected, no resources are available, and there must be imminent danger. The ministry representative stated that, in this case, with the evidence received for the Reconsideration Decision, the ministry could not conclude that the expense was unexpected.

Admissibility of Additional Information

The panel admitted as evidence the appellant's statements provided with the Notice of Appeal and her oral testimony about recent living expenses as evidence under section 22(4) of the *Employment and Assistance Act*, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The ministry had no objections to the admission of this evidence.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's Reconsideration Decision that determined the appellant was ineligible for a crisis supplement for hydro was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine that the appellant was ineligible for a supplement because she did not meet the criteria?

Ministry position

In the decision, the ministry found all criteria necessary to receive the supplement were met except that the expense was unexpected. Specifically, the ministry was not satisfied that the appellant's need to pay for her hydro bill was due to unexpected circumstances.

During the hearing, the ministry representative confirmed that, when evaluating the unexpected nature of an expense, actual costs and the circumstances surrounding the expense are considered. When asked by the panel about the new evidence concerning the circumstances recently affecting the appellant and her children, including their respective health issues and being compelled to suddenly move, and whether this could have a bearing on the unexpected nature of the expense relating to the appellant's hydro bill, the ministry representative confirmed that this additional information as presented at the hearing would confirm that the expense was unexpected.

Appellant's position

The appellant has experienced several issues which were unexpected relating to her separation from her spouse, including health assessments for her and therapy for her children. Having to move out of her home suddenly was also unexpected and there were a variety of costs that had to be paid immediately.

Panel's reasons

Section 5 of the *Act* states that a crisis supplement may be provided to a family unit that is "eligible for it".

Section 57 of the Regulation provides more detailed requirements for a crisis supplement. These include:

- 1) they must be eligible for disability assistance;
- 2) the expense must be unexpected;
- 3) there are no resources available;

- 4) there is imminent danger to the physical health of any person; or
- 5) there is the risk of the removal of a child under the *Child, Family and Community Service Act*.

In the Reconsideration Decision dated July 10, 2024, the ministry concluded that the appellant was not eligible for a crisis supplement for hydro because they could not determine that the expense was unexpected. As the ministry has concluded that all other criteria were met, the panel will only address this criterion.

The panel finds that the ministry reasonably determined, based on the evidence provided at reconsideration, that the appellant's expense for hydro was foreseeable. However, during the hearing, the appellant presented new evidence relating to her and her children's respective health issues, having to move, and other expenses related to these circumstances.

The panel accepts that the uncertainty related to the appellant's health issues, her children's therapy, and being compelled to move from their home with little notice are all unexpected. During the hearing, the ministry representative confirmed that this additional evidence as presented by the appellant would satisfy the unexpected criteria for the supplement. With this new evidence, and the ministry representative's input related to it, the panel finds that an unexpected need for the crisis supplement is now established. As such, the panel finds that the ministry was unreasonable when it determined that the appellant's hydro bill was not unexpected.

Conclusion

The Regulation provides that a crisis supplement may be provided to an applicant should all eligibility criteria be met. In this case, with the new evidence provided during the hearing, and the confirmation from the ministry representative in attendance that this evidence would satisfy the unexpected criteria, the panel finds that the ministry's Reconsideration Decision is no longer reasonably supported by the evidence or is a reasonable application of the legislation. The ministry's Reconsideration Decision is no longer reasonably supported by the evidence.

The panel rescinds the ministry's decision. The appellant is successful in the appeal.

Schedule of Legislation

Employment and Assistance for People with Disabilities Act

Section 5

Disability assistance and supplements

Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for People with Disabilities Regulation

Section 57

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit, or

(ii) removal of a child under the Child, Family and Community Service Act.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit;

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i) the family unit's actual shelter cost, and

(ii) the sum of

(A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B) the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) Repealed. [B.C. Reg. 248/2018]

(6) Repealed. [B.C. Reg. 248/2018]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

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Part G – Order

The panel decision is: (Check one) Unanimous By Majority

The Panel Confirms the Ministry Decision Rescinds the Ministry Decision

If the ministry decision is rescinded, is the panel decision referred
back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Robert McDowell

Signature of Chair

Date (Year/Month/Day)

2024/08/05

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2024/08/05

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2024/08/01