

2024-0408

### **Part C – Decision Under Appeal**

The decision at appeal is the October 29, 2024 reconsideration decision made by the Ministry of Social Development and Poverty (the “ministry”) that pursuant to the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”), the Appellant was not eligible for a crisis supplement to purchase replacement tires for his motor home.

The ministry was satisfied that the Appellant met three of the requirements:

- The Appellant is a recipient of disability assistance,
- The Appellant does not have the resources to pay for the replacement tires, and
- Failure to replace the tires would lead to an imminent danger to the Appellant’s health due to sanitation or road safety.

However, the ministry was not satisfied that the supplement was required for an unexpected expense or to obtain an item unexpectedly needed.

### **Part D – Relevant Legislation**

*Administrative Tribunals Act, Section 46.3*

*Employment and Assistance for Persons with Disabilities Act, Section 5*

*Employment and Assistance for Persons with Disabilities Regulation, Section 57*

*Employment and Assistance Act, Section 19.1, Section 22(4)*

The full wording of this legislation is set out in the Schedule of Legislation at the end of this decision.

## Part E – Summary of Facts

The hearing took place by videoconference on November 15, 2024.

The information before the ministry at the time of the Reconsideration included:

- The Appellant is a sole recipient of disability assistance;
- On June 17, 2024, the Appellant submitted an initial service request for a crisis supplement to pay for four replacement tires for his motorhome:
  - The Appellant further explained he needs the crisis supplement for tires because:
    - The motorhome is his home;
    - The Appellant was not aware the tires were in poor condition—when the motorhome was purchased, the tires were sprayed in Armor All to cover the damage;
    - The Appellant checked “yes”, the situation leading to his request was unexpected;
    - The Appellant does not have funds to cover the unexpected expense;
    - The cost of the requested repair is \$1944.18; and
    - Without the replacement tires, the Appellant’s health and safety is at risk.
  - The Appellant included additional documents with his request:
    - May 6, 2024 Owner’s Certificate of Insurance and Vehicle License; and
    - June 17, 2024 phone screenshot of an estimate for replacement of six tires and total cost of \$1944.18; and
    - Two undated pictures of tire(s) showing cracks and rubber tread separating from the tire.
- On August 28, 2024, the Appellant submitted a second service request for a crisis supplement to pay for four replacement tires for his motorhome:
  - The Appellant further explained he needs the crisis supplement for tires because:
    - The tires are cracking and at risk of exploding; one tire has already exploded; and
    - Four tires are severely cracked.
  - The Appellant checked “no”, the situation leading to his request was not unexpected;
  - The Appellant does not have available funds;
  - The cost of the requested repair is \$1000; and
  - Without the replacement tires, the Appellant has great stress, and there is a potential for a life threatening injury to him and to others on the road.

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- On October 15, the Appellant's Request for Reconsideration noted in part:
  - The Appellant is requesting a reconsideration because without the supplement he will have to use his food and shelter funds to pay for the repairs;
  - The Appellant requires tires for the motorhome to travel to dump sites to remove water and waste, or to fill up fuel for heating, etc.; and
  - The Appellant has no other means of transportation and he must use the motorhome for travel until he can secure finances for a small car.

## **Evidence after Reconsideration**

### *Reasons for Appeal:*

The Appellant notes the reasons for his appeal and why he disagrees with the ministry as follows:

- He is required to have safe shelter and it's a human right;
- He is facing an unexpected crisis and emergency and needs the repair; and
- Other urgent repairs are required; there is more damage due to leaking water and he does not have the funds to pay for repairs.

### *Prior to the Hearing:*

#### **APPELLANT**

In advance of the hearing, the Appellant provided two submissions to the Tribunal—one totaling 44 pages ("Submission 1") and one totaling 17 pages ("Submission 2"). Both submissions contained multiple documents (emails, pictures, texts, quote(s), receipt) focused primarily on the Appellant's concerns and requests for assistance to repair additional issues (i.e. leaking water, mould) with his motorhome. While not all details of the evidence are repeated here, the panel has reviewed all the documents and provides a summary of the evidence related to his request for replacement tires:

#### Submission 1

- November 7, 2024 email to the Tribunal where the Appellant states in part, "...the [motorhome] seller lied...about the condition of the vehicle and it broke down on the highway and cost 1000 to tow.;"
- Undated text from the Appellant noting in part, "...I live full time in the motorhome."

Submission 2

- November 9, 2024 email to the Tribunal where the Appellant states in part, "...I'm trying to address the biggest safety concerns."

*At the Hearing:*

## APPELLANT

At the hearing, the Appellant provided new information about the need for tires as follows:

- The Appellant had been homeless prior to obtaining the motorhome;
- The motorhome was (informally) inspected by a qualified mechanic after it broke down returning to the Appellant's home community and was towed there June 2024 for repair;
- The Appellant was advised by the mechanic that the tires were beyond their expiry date;
- The Appellant received ministry funding approximately June 2024 to replace the engine;
- Two front tires have been replaced—the Appellant now requires four tires to be replaced;
- The spare tire exploded;
- The Appellant rents a pad with access to power, water, and septic—although the septic is not currently available due to debris in the way; and
- The Appellant does use the motorhome to drive between his home and work in outside communities as far as 65 kms one way.

The ministry did not object to the Appellant's additional evidence submitted prior to the hearing or his oral evidence presented at the hearing.

## MINISTRY

At the hearing, the ministry did not present new evidence; the ministry relied on its written reasons provided in its Reconsideration decision.

*Admissibility of New Evidence:*

The panel accepted the Appellant's oral and written information noted above, which is relevant to the request for replacement tires, as new evidence. The details provided by the Appellant added further information about the history of the motorhome purchase, the

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condition of the Appellant's motorhome, his health and safety, and the urgency of the needed repairs. The Appellant's evidence was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

## **Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's reconsideration decision, which determined that pursuant to the Regulation, the Appellant was not eligible for a crisis supplement for replacement tires, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

### **Position of the Appellant**

At the hearing, the Appellant argued that the ministry's decision to deny him the crisis supplement because replacement tires for the motorhome were not an unexpected expense or an item unexpectedly needed, was simply not correct. The Appellant said that at the time of purchase, because the seller of the motorhome did not disclose the tire damage, he had no way of knowing the extent of their extremely poor condition. The Appellant said that because the tires were coated in Armor All, it was not evident that the tires were so bad. The Appellant said that the fact that the information was not disclosed by the seller not only meant that he was a victim of fraud, it also meant that he was not aware of the tires' damage at the time of purchase and that in itself, makes the expense unexpected and replacement tires an item unexpectedly needed. Along with requiring replacement tires to live safely in his home, the Appellant said the fact he uses the motorhome to travel for work means the tires must be replaced to protect him and others on the road. Finally, the Appellant says he has made efforts to get funding other ways but has been unsuccessful so it remains up to the ministry to provide him with a safe home; without proper shelter his basic human rights are being denied.

### **Position of the Ministry**

The ministry's position is that the Appellant did not meet all the eligibility criteria under the legislation to receive the crisis supplement. The ministry said the Appellant met the requirements of being a recipient of disability assistance, having no resources, and imminent danger to physical health. However, the ministry said it was unable to grant the crisis supplement because the Appellant did not demonstrate that the replacement tires were an unexpected expense or an item unexpectedly needed.

The ministry said that given the age of the motorhome, it is not considered unexpected that the tires would require changing. The ministry also said it was the Appellant's responsibility to know what he was purchasing including getting any inspections done to verify any representations made by the motorhome's seller at the time of purchase. According to the ministry, from June 2024 the Appellant was aware of the condition of the

current tires, the cost of replacing them, and he had advised the ministry that the situation was not unexpected to him. Finally, the ministry said that replacing tires is part of owning a vehicle which would need regular maintenance. For all these reasons, the ministry found that replacement tires were not an unexpected expense or an item unexpectedly needed and therefore the appellant was not eligible for the crisis supplement.

## **Analysis**

The panel recognizes the Appellant's submissions regarding his view that the panel must consider Human Rights and his assertion that those principles should be applied by the panel when making their determination. The panel notes that under s.19.1 of the *Employment Assistance Act* and s. 46.3 of the *Administrative Tribunals Act*, the panel does not have the authority to apply the *Human Rights Code*.

The issue at appeal was whether the ministry was reasonable in finding that the Appellant was not entitled to a crisis supplement for replacement tires. Based on the information available at hearing and at reconsideration, the panel finds that the ministry was reasonable in determining that the Appellant's request for a crisis supplement for replacement tires for his motorhome did not meet all the criteria required by the legislation.

The ministry may provide a crisis supplement if the request meets all the criteria under section 57 of the Regulation. Those criteria are:

- The family unit is eligible for disability assistance,
- They are unable to meet the expense because there are no resources available to the family unit,
- They require the supplement to meet an unexpected expense, or an item unexpectedly needed, and
- Failure to meet the expense will result in imminent danger to the health of any person in the family unit.

At reconsideration, the ministry was satisfied that the Appellant met three of the four criteria. However, the ministry was not satisfied that replacement tires for the motorhome was an unexpected expense or an item unexpectedly needed.

### *Unexpected Expense or Item Unexpectedly Needed*

In May 2024, the Appellant purchased the 1985 motorhome and proceeded to attempt to drive it to his home community. However, the Appellant said the vehicle broke down so he had it towed to a mechanic in his home community. The Appellant said that he only became aware that the tires required replacement upon taking the motorhome to the mechanic approximately June 2024. The Appellant said that because the seller did not disclose the damage to the tires and because they had been covered in Armor All, he did not know how bad the tires were.

However, with his June 17, 2024 request for a crisis supplement, the Appellant provided two pictures showing significant separation and cracking on the tire tread. The panel finds that based on the pictures submitted June 17, 2024, the extent of tire damage would have been known by the Appellant through the experience of driving the vehicle May 2024.

Further, the panel determines that although Armour All may have been applied to the tires to distract from the tires' actual condition, the degree of damage depicted in the June 17, 2024 pictures would have been readily apparent to the naked eye upon purchase in May 2024. Although the Appellant felt misled because he says the seller did not disclose about the tires needing replacing, it is a buyer's responsibility to confirm and verify their purchase and the vehicle's condition.

Finally, the panel finds that the ministry was reasonable when it found replacing tires on a vehicle is a regular maintenance item that is not unexpected. Similarly, the panel finds that the ministry was reasonable when it decided that needing to replace tires on a 1985 vehicle would not be unexpected or items unexpectedly needed.

### **Conclusion**

For all the reasons stated above, the panel finds that the ministry was reasonable in finding that the Appellant did not meet the criteria established by the legislation. the panel determines that the Appellant has not demonstrated that replacement tires for his motorhome was an unexpected expense or an item unexpectedly needed. As such the panel finds that the ministry's reconsideration decision, which determined that pursuant to the Regulation, the Appellant was not eligible for a crisis supplement for replacement tires, was a reasonable application of the legislation in the circumstances of the Appellant. The panel confirms the ministry's decision. This means the Appellant is not successful with his appeal.

**Relevant Legislation****ADMINISTRATIVE TRIBUNALS ACT***Tribunal without jurisdiction to apply the Human Rights Code*

46.3 (1)The tribunal does not have jurisdiction to apply the *Human Rights Code*.  
 (2)Subsection (1) applies to all applications made before, on or after the date that the subsection applies to a tribunal.

**EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT***Disability assistance and supplements*

5 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 ACT***Application of Administrative Tribunals Act*

19.1 The following provisions of the *Administrative Tribunals Act* apply to the tribunal:  
 (f)section 46.3 [tribunal without jurisdiction to apply the *Human Rights Code*];

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(4)A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION***Crisis supplement*

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 imminent danger to the health of any person in the family unit.

(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 \$50 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

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

in section 4 of Schedule A and any supplements provided under

section 54.3 [pre-natal shelter supplement] or Division 7 [Housing

Stability Supplement] of Part 5 of this regulation, or

(B) the maximum set out in Table 1 of Schedule D, the maximum set out

in Table 2 of Schedule D and any supplements provided under section

54.3 or Division 7 of Part 5 of this regulation,

as applicable, for a family unit that matches the family unit;

(c) if for clothing, the maximum amount that may be provided in the 12 calendar month period preceding the date of application for the crisis supplement is \$110 for each person in the family unit.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2]

(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

Carmen Pickering

Signature of Chair

Date (Year/Month/Day)

2024/11/21

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2024/11/17

Print Name

Linda Pierre

Signature of Member

Date (Year

2024/11/17