

Appeal Number 2025-0317

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the Ministry”) Reconsideration Decision dated August 26, 2025, which denied the Appellant’s request to receive regular disability assistance benefits (including support and shelter allowances for a person residing in a rented place of residence) instead of disability assistance benefits for a person residing in a special care facility (including comforts and per-diems.)

The Ministry found that the Appellant lives in a licensed long-term care facility regulated by the health authority in his area under the *Community Care & Assisted Living Act*. This facility meets the definition of a “special care facility” and, as such, the Appellant meets the definition of a “specified person” / “person in special care.” The Ministry is satisfied that the disability assistance benefits provided to the Appellant as a person in special care are appropriately administered under Schedule A, Section 8 of the Employment and Assistance for Persons with Disabilities Regulation.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (“Act”) Section 1 and 5

Employment and Assistance for Persons with Disabilities Regulation (“Regulation”) Section 1, 24, and 70.5, Schedule A – Section 1, 4, 6 and 8

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

The Appellant requested a videoconference hearing; his hearing was held on October 6, 2025 with the Appellant, his Social Worker, and a Ministry representative in attendance.

Information before the Ministry at time of Reconsideration

- The Appellant is a sole recipient of disability assistance. His disability assistance is currently administered in the form of comforts and per-diems for a person residing in a special care facility.
- The Appellant's rate of assistance includes \$649.00 monthly per-diems to be paid to the special care facility where he lives (increased from \$631.00 in June 2025) and a \$222.00 monthly comforts allowance paid to the Appellant, for a total of \$871.00. He also receives a \$52.00 monthly transportation supplement. \$844.24 in monthly deductions are applied to the Appellant's rate of assistance for his ongoing unearned income from Canada Pension Plan disability benefits.
- The Appellant has been residing at this current special care facility since December 1, 2022. Prior to April 1, 2025, he resided in a different unit at this address.
- In November 2022, a representative from the special care facility confirmed that this is a long-term care home with funded beds, although residents are required to pay a security deposit. The representative explained that residents live independently with assistance in some areas.
- On June 6, 2025, the Appellant called the Ministry and explained that he is not in a special care facility / hospital, as he resides in a residence where he has his own room and bathroom. The Appellant asked that his file be updated to reflect that he is paying for regular shelter costs.
- On July 7, 2025, the Appellant submitted the following documents:
 - A Shelter Information form for the Appellant's current residence (dated July 3, 2025) that indicated the following:
 - The Appellant has resided at his current address since April 1, 2025.
 - This residence is a rental unit (with or without roommates) and the Appellant is responsible to pay \$631.00 monthly rent / shelter at this address.

Appeal Number 2025-0317

- Utilities are not included in the Appellant's \$631.00 basic rent. He is responsible to pay \$18.00 for utilities.
- The Appellant is responsible to pay a \$500.00 security deposit at this address.
- A July 7, 2025 letter from the special care facility that states:
 - The Appellant has been living in the "Assisted Living Residence" at this "Community and Retirement Living" facility since December 1, 2022.
 - "Assisted Living" in British Columbia is designed to support adults who can live independently but require a supportive environment.
 - Services are provided in accordance with the standard set out by the BC Assisted Living Registry, including housing, hospitality services, and personalized assistance with daily living as needed.
 - At the assisted living residence, the Appellant pays \$631 per month. This monthly rate includes accommodation in a private suite, two meals per day, weekly housekeeping, and scheduled recreational and social programming.
 - The Appellant is responsible for the cost of cable and internet services, as well as an \$18.00 monthly hydro charge not included in the monthly rate.
 - The Appellant lived in suite "A" since March 30, 2025, at which time he moved internally to suite "B."
- On July 10, 2025, the Ministry updated the Appellant's file to reflect his change of address from Unit "A" to Unit "B" at the same location. The Ministry also updated the Appellant's shelter expenses to include his \$18.00 monthly hydro costs.
- The Ministry arranged for a Ministry Policy and Procedure Implementation Manager ("PPIM") to review the Appellant's request to receive assistance benefits for regular rent, rather than comforts and per-diems for a person residing in a special care facility.
- On July 22, 2025, a PPIM reviewed the Appellant's file and determined that he is receiving the correct amount and type of disability assistance benefits including comforts and per-diems while he is residing in a special care facility. Based on this information, the Ministry denied the Appellant's request. The Ministry notified the Appellant of this decision and offered him the right to reconsideration.

- On August 12, 2025, the Appellant submitted his Request for Reconsideration and explained the following:
 - The Appellant's living situation has been categorized in a manner that does not reflect the actual services and conditions provided. This has resulted in an unjustified financial burden.
 - While his living accommodation may appear to be part of a larger "assisted living" complex, it is still in fact a separate shelter building that provides neither the services nor the supports typically associated with assisted living arrangements.
 - Unlike standard assisted living residences, the Appellant's residence requires a security deposit, which is more typical of a private or transitional housing arrangement.
 - The Appellant's residence is clearly intended as short-term or transitional accommodation, not a long-term care or permanent assisted living arrangement. This is evidenced by the lack of permanent service offerings and the structure of the tenancy.
 - No housekeeping is provided at the Appellant's residence. He must clean his own unit and purchase his own cleaning supplies and toiletries. No cable or television service is provided. No personal care services that would typically be provided in an assisted living setting are provided.
 - The Appellant's dietary and medical needs are not supported at his residence. He is diabetic and requires dietary support including diabetic-appropriate meals. A dietician is not permitted to provide services in the Appellant's residence due to its classification as independent living, even though his medical condition warrants this support.
 - The Appellant's residence is physically separated from the other two buildings on the site that may offer more complete assisted living services.
 - The level of care or services that would justify an assisted living rate are not being received. The current situation more closely aligns with that of a shelter residence requiring disability assistance, not that of a fully supported assisted living environment.
 - The Appellant requested that the Ministry reclassify his accommodation and adjust the rate accordingly to reflect the true nature of the Appellant's living arrangements and the supports

provided. This would ensure fairness and alleviate the strain of being incorrectly charged.

Notice of Appeal (Dated September 11, 2025 and received at the Tribunal September 15, 2025.)

Under "Reasons for Appeal," the Appellant wrote,

"I reside in an independent living facility, not long term care, therefore do not receive diabetic food supports or related financial assistance. I was required to pay a security deposit akin to a private tenancy, and the Ministry has acknowledged the facility does not provide the services I require. Yet no monetary supplement has been offered resulting in undue financial hardship."

Hearing

Appellant

At the hearing, the Appellant said that he has been trying to get this problem resolved with the Ministry for several years. He explained that the operators of his residence run three separate buildings on the same property. The Appellant lives in an independent care building, the second building is for people who need assisted care, and the third building is a long-term care facility.

As a resident in an independent living facility, the Appellant had to pay a security deposit, and is required to pay his monthly internet, telephone bill and hydro bill. When the Ministry found out about this, they began providing him with \$18 per month for his hydro bill.

As a resident in this independent living facility, the Appellant said that he receives only these services:

- A self-serve Continental breakfast.
- Lunch and dinner.
- Light housekeeping of his personal living space once a week.
- Once a week, a staff person supervises the Appellant while he takes a shower. In addition, he receives staff assistance putting on his socks and with his hearing aids.

The Appellant is diabetic; he has special dietary and medical needs. The operators of the three buildings provide dietitian services and special diets for people who live in the assisted living building and the long-term care building, but they do not provide these services for residents of the independent care building where he lives. Although the Appellant has to pay for his special dietary and medical needs, the Ministry will not provide him with any funds to help pay these additional expenses because the building where he lives is incorrectly categorized as a special care facility.

Ministry

At the hearing, the Ministry Representative relied on the Ministry's August 26, 2025 Reconsideration Decision. In reviewing the appeal record, the Ministry representative acknowledged that this issue has gone back and forth between the Appellant and the Ministry several times.

The Ministry Representative said that when determining the type and amount of disability assistance benefits that may be issued to a recipient, the Ministry must defer to the definitions provided in legislation with respect to the type of accommodation in which the recipient resides.

Section 70.5 of the Regulation describes a "person in special care" as a person who receives accommodation and care in a "special care facility," which in turn is defined under Section 1 of the Regulation as a facility that is a licensed community care facility under the *Community Care and Assisted Living Act*.

The Ministry confirmed that the property where the Appellant lives is licensed as a long-term care facility that is regulated by the relevant health authority in his area, under the *Community Care & Assisted Living Act*.

The Ministry Representative noted that a PPMB manager reviewed the Appellant's file and determined that the Appellant is receiving the correct amount and type of disability assistance benefits including comforts and per-diems while he is residing in a special care facility.

Admissibility

The Panel determined the Appellant's September 11, 2025 Notice of Appeal, the oral evidence from the Appellant and from his Social Worker during the hearing, and the oral

Appeal Number 2025-0317

evidence from the Ministry Representative during the hearing are reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible as evidence under 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 was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant. That is, did the Ministry reasonably deny the Appellant's request to receive regular disability assistance benefits (including support and shelter allowances for a person residing in a rented place of residence) instead of disability assistance benefits for a person residing in a special care facility (including comforts and per-diems.)

Appellant's Position

The Appellant's position is he lives in an independent living facility and the Ministry has incorrectly categorized the building he lives in as a special care facility. The building he lives in does not provide the same services and support that are provided to residents of the assisted living building and the long-term care facility in on the same property.

As a person living with diabetes, he has special dietary and medical needs, but dietitian services and special diets are not provided in the independent living building where he lives. The Appellant is incurring additional financial costs and this is an unfair financial burden on him as he receives less than \$100 per month from the Ministry after they deduct his Canada Pension Plan benefits.

The Appellant asserts that the building he lives in aligns more closely with that of a rented place of residence, not a special care facility. The Ministry should categorize the building he lives in as a regular residence. This would allow the Appellant to be eligible to receive regular disability assistance benefits (including support and shelter allowances for a person residing in a rented place of residence) instead of disability assistance benefits for a person residing in a special care facility (including comforts and per-diems.)

Ministry's Position

The Ministry's position is that it is required to assess benefits based on the definitions provided in legislation with respect to the type of accommodation in which the recipient resides. The Ministry does not have any discretion in this matter.

The Appellant's residence is licensed as a long-term care facility that is regulated by the relevant health authority in his area, under the *Community Care & Assisted Living Act*. Accordingly, the Ministry has determined that the Appellant is a person living in a special care facility and that as "a person in special care," his monthly benefits have been

assessed correctly. As such, the Appellant is receiving the maximum amount of monthly assistance that can be provided under this section (minus deductions for his Canada Pension Plan disability income) including \$222.00 comforts and \$649.00 per-diems, based on the actual costs to the special care facility for the services provided at the rate approved by the Ministry for this type of facility.

Panel Analysis

Legislation

Special Care Facility

Section 1(1) of the Regulation defines a “special care facility” as a “licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the minister under subsection 3.”

The Panel acknowledges that the building where the Appellant resides is deemed by its operators as an independent living facility; however, the overall property has one license as a long-term care facility regulated by the relevant health authority under the *Community Care & Assisted Living Act*.

The Panel recognizes that the Appellant does not receive the same services as people who reside in the two other buildings on the same property. Notably, he does not have access to the dietitian services provided to residents in the other two buildings, and does not receive a special diet for his diabetic condition. This Panel notes that this does not appear to provide equitable treatment for the Appellant as it puts him in a “catch-22” situation where the operator’s license does not allow him to receive access to a dietitian and a special diabetic diet, yet the ministry classifies him as being a resident of a special care facility where such services may be provided.

Nonetheless, the legislation does not permit the Ministry to disregard the licensing of the Appellant’s residence as a special care facility. The Panel also must make its determinations with adherence to the legislation.

Accordingly, the Panel finds that, as the Appellant’s residence is licensed as a long-term care facility regulated by the relevant health authority under the *Community Care and*

Assisted Living Act, based on the Regulation's definition of a "special care facility," the Ministry reasonably determined that the Appellant lives in a special care facility.

Person in Special Care

Section 70.5 of the Regulation defines a "person in special care" as a person who:

- (a) receives accommodation and care in a special care facility or a private hospital, other than a special care facility operated by a service provider as defined in section 1 of the *Community Living Authority Act*, or
- (b) is admitted to a hospital because the person requires extended care.

As the Panel has found that the Appellant is a resident of a special care facility under Section 70.5(a) of the Regulation, the Panel finds that the Ministry was reasonable in its determination that the Appellant is a "person in special care."

Disability Assistance for a "Specified Person" (A person receiving accommodation and care in a special care facility)

Schedule A, Section 8 of the Regulation states that, "for a sole recipient with PWD designation who is considered a "specified person" (receiving accommodation and care in a special care facility), the amount of disability assistance that may be provided is determined based on the actual cost, if any, to the person of the accommodation and care at the rate approved by the ministry for this type of facility, and a comforts allowance of \$222.00."

The Appellant's current rate of assistance includes \$649.00 monthly per-diems to be paid to the special care facility where he lives and a \$222.00 monthly comforts allowance paid to the Appellant, for a total of \$871.00. He also receives a \$52.00 monthly transportation supplement. \$844.24 in monthly deductions are applied to the Appellant's rate of assistance for his ongoing unearned income from Canada Pension Plan disability benefits. After this deduction, the Appellant currently receives \$78.76 each month.

The Panel recognizes that \$78.76 likely does not provide enough for the Appellant to pay for all of his monthly expenses, including for a diabetic diet and medical expenses, internet, telephone, and personal care costs.

The Ministry and Panel must adhere to the legislation and its provisions. The Panel notes that the Ministry has calculated the Appellant's monthly rate of assistance and deductions in accordance with the legislation. The Panel finds that the Ministry was reasonable in its determination of the Appellant's monthly disability assistance.

Conclusion

The Panel finds that the Ministry reasonably determined that the Appellant resides in a special care facility, he meets the definition of a person in special care, and his disability assistance is being calculated correctly.

For these reasons, the Appellant is not successful in his appeal and the Panel confirms the Ministry's Reconsideration Decision.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Interpretation

1 (1) In this Act:

"disability assistance" means an amount for shelter and support provided under section 5 [*disability assistance and supplements*];

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 for Persons with Disabilities Regulation

Definitions

1 (1) In this regulation:

"special care facility" means a facility that is a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the minister under subsection (3);

Amount of disability assistance

24 Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

Definitions

70.5 In this Division:

"person in special care" means a person who

(a) receives accommodation and care in a special care facility or a private hospital, other than a special care facility operated by a service provider as defined in section 1 of the *Community Living Authority Act*, or

(b) is admitted to a hospital because the person requires extended care;

"specified person" means

(a) a removed child,

(b) a detained person,
or (c) a person in
special care.

Schedule A Disability Assistance Rates
(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

(2) Despite subsection (1), disability assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

Monthly shelter allowance

4 (1) For the purposes of this section:

"**family unit**" includes a child who is not a dependent child and who relies on the parent for the necessities of life and resides in the parent's place of residence for not less than 40% of each month;

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit other than a family unit described in section 14.2 (1) of the Act is the greater of

(a) the minimum set out in the following table for the family unit, and

(b) the lesser of

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

(ii) the maximum set out in the following table for the family unit.

Item	Column 1 Family Unit Size	Column 2 Minimum	Column 3 Maximum

Appeal Number 2025-0317

1	1 person	\$75	\$500
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People receiving room and board

- 6** (1) For a family unit receiving room and board other than in a facility mentioned in “section 8 (2) (b) (i) [people in special care] of this Schedule, the amount referred to in section 24 (1) (a) [amount of disability assistance] of this regulation is the smaller of
- (a) the sum of
 - (i) the actual cost of the room and board, plus
 - (ii) \$60 for each calendar month for each applicant or recipient, plus
 - (iii) \$127 for each calendar month for each applicant or recipient who is a person with disabilities, plus [B.C. Reg. 193/2017] (iv) Repealed [B.C. Reg. 193/2017, s. 11 (b).]
 - (v) \$40 for each calendar month for each dependent child in the family unit,
 - and (b) the amount calculated under sections 1 to 5 of this Schedule for a family unit matching the applicant's or recipient's family unit.
- (2) Repealed. [B.C. Reg. 122/2019, App. 2, s. 5 (b).]
- (3) For the purposes of subsection (1) (a) (i), if the actual cost of room and board is less than the minimum determined under section 4 (2) (a) or (2.1) (a) for the family unit, the actual cost is conclusively deemed to be that minimum.

People in special care or otherwise living away

- 8** (1) In this section, “**person in special care**” and “**specified person**” have the same meanings as in section 70.5 [definitions – housing stability supplement] of this regulation.
- (2) For a family unit that includes one or more specified persons, the amount referred to in section 24 (1) (a) [amount of disability assistance] of this regulation is the sum of
- (a) the amount that would be calculated under this Schedule if the specified persons were not part of the family unit, and
 - (b) for each specified person who is a person in special care,
 - (i) the actual cost, if any, to the person of the accommodation and care at the rate approved by the minister for the type of the facility, and (ii) a comforts allowance in the following amount:
 - (A) if the person is a person with disabilities, \$222;
 - (B) if the person is not a person with disabilities, \$115.
- (3) For certainty, this section applies in relation to a family unit that includes only one or more persons in special care and, in that case, the amount referred to in subsection (2) (a) is to be considered to be zero.

APPEAL NUMBER 2025-0317

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2025/10/20

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2025/10/19

Print Name

Baljinder Chahal

Signature of Member

Date (Year/Month/Day)

2025-10-20