

### PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated 09 January 2012 which found that the appellant was not eligible for a crisis supplement requested under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The request was for \$4000 for a wood stove and its installation to heat the appellant's residence. The ministry found that the situation did not meet all the criteria under section 57(1) of the Regulation, namely that the need for the item was unexpected, there are no alternative resources available to obtain the item and failure to meet the expense would result in imminent danger to health.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – section 57

## PART E – Summary of Facts

The background before the ministry at reconsideration to the appellant's request for a crisis supplement was set out in an attachment to her Request for Reconsideration dated 21 December 2011, the first page of which is summarized below:

- She bought her home in 2008. At that time she was not in receipt of disability assistance. When bought, the home was heated by propane. However, at \$1000 for a tank fill-up and \$125 for tank rental, she found that cost too expensive. A friend offered her the use of a pellet stove that he and his wife were no longer using. She took them up on the offer and got rid of the propane system. Since then until early fall 2011, the pellet stove has been her only source of heat.
- Due to unfortunate circumstances, the couple from whom she had borrowed the pellet stove split up and needed their stove back.
- Since returning the pellet stove, she has relied on electric heaters that she has borrowed, 2 of which have burned out. They are apparently not meant to be left on 24/7, but she had them on for that long for fear of having her pipes freeze
- The appellant has been offered a wood stove for free, but it doesn't conform to the provisions of her home insurance policy, so if there is a fire, her coverage would be null and void.

The panel notes that two pages (pages 2 and 3) of the attachment, the page numbers of which indicate five pages in total, are missing from the appeal record. The ministry's Reconsideration Decision, including the appellant's Request for Reconsideration and its attachment, is stamped "Certified True Copy," indicating that the missing pages were not before the ministry at reconsideration.

The final two pages of the attachment set out the appellant's conclusions. Reference is made to how her home financing, because of her income, is not a conventional mortgage but a loan at 8.95% and \$1250/month. The balance of the conclusions goes to argument.

The ministry's files indicate the appellant is in receipt of income assistance as a single person with PWD designation. On 25 November 2011 she reported earning \$225/month in employment income, and has one room and boarder paying \$450/month and a second boarder paying the same amount beginning 01 December. She had indicated that she was looking to refinance her home. She has stated that she has applied for a Disability Tax Credit (amount unknown).

In her Notice of Appeal, the appellant states she did not qualify for refinancing and that she has only one boarder.

At the hearing, the appellant read the missing material from the attachment to her Request for Reconsideration. This dealt with a car not worth more than \$150, and how her hydro bills had increased from about \$90/month to about \$360/month since having to rely on electric heat. At the conclusion of the hearing, the appellant declined to leave a copy of these pages.

The appellant confirmed she has only one boarder, who is ill and might leave because her home is so cold. She stated that she lives in a single-sided manufactured home with an addition. She said that she had gone to a home supply store and found a wood stove for about \$400, but was told that such a stove was not CSA approved for installation in a manufactured home. The wood stove available to

her for free is not CSA certified. She stated that she had obtained a detailed quote for a wood stove and its installation that would meet the applicable standards, but that the ministry was not interested in her submitting the quote. She reviewed the increase in her hydro bills, from about \$90/month to about \$360/month since having to rely on electric heat. The appellant quoted from a hydro bill that she had brought with her to the hearing, with total charges in excess of \$800.00, of which a good portion of this invoice was in arrears from the previous months. She had no idea how she could pay this invoice as that was almost the same as her monthly PWD allowance. She also referred to the cost of buying new electric heaters, how some of them had burned out over the winter and that she had had to assume the cost of replacing them. She stated that she had explored the possibility of energy efficient baseboard heating or electric furnace, but this was expensive, especially in view of future hydro rate increases, and that while rebates were available, money had to be spent to obtain the rebates. She stated that she has not been able to file a claim for the disability tax credit as she has not yet been able to see her physician to have him fill out the necessary form.

The panel finds that the new information provided by the appellant is in support of the original information and records that were before the ministry at the time of reconsideration, as it clarifies the background to her request. As such the panel admits the new information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

The ministry stood by its position at reconsideration. In response to a question, the ministry stated that crisis supplements were not normally approved for expenses related to unexpected costs related to the maintenance, repair or replacement of household appliances. Cited as an exception was a case where a hot-water tank exploded and there were children in the household.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision pursuant to section 57(1) of the EAPWDR to deny the appellant a crisis supplement of \$4000, requested for a wood stove and its installation to heat her residence, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

More specifically the issue is whether the ministry reasonably found that the all the criteria under section 57(1) of the EAPWDR had not been met, namely that the need for the item was unexpected, there were no alternative resources available to obtain the item, and failure to meet the expense would result in imminent danger to health.

The applicable subsection from the EAPWDR is set out below:

### **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*.

Whether expense is unexpected.

With respect to the criterion that the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed, the position of the ministry is that the need for heating her residence cannot be considered an unexpected expense.

The position of the appellant is that the need to return the borrowed pellet stove was indeed unexpected, giving rise to the need to find other means to heat her home; that she has explored alternatives to the requested stove to heat her home, but they are either too expensive (hydro) or would leave her without insurance protection (the free stove or a less expensive stove not certified for a manufactured home); and that, given her limited income and the ready availability of wood nearby, she would be better able to look after herself cost-effectively, have less anxiety and be less likely to keep asking the ministry for funds. Without a proper heating system, there would be more "unexpected" situations, such as frozen pipes or illness to herself and her boarder due to the cold weather.

The panel finds that the appellant's position is not supported by her own evidence: the pellet stove was on loan; at some point it would have had to be returned; while the timing of the return was unpredictable and perhaps unfortunate, having to return it cannot be said to be unexpected. As to the

ministry's position, the panel finds it reasonable that the ministry went to the very purpose of the requested item: the need for heating her residence. The panel finds that meeting such a need is an integral part of daily living and, in the appellant's case, home-ownership, with the attendant costs of maintaining, repairing and replacing home appliances such as a stove. In this case, the panel finds no difference between replacing a stove because it had worn out and replacing a borrowed one: in both cases, the timing may be unpredictable but the situation is to be expected and the need is ongoing. The panel therefore finds that the ministry reasonably determined that the crisis supplement request did not meet this criterion.

Whether resources available.

As to whether the appellant is unable to meet the expense or obtain the requested item because there are no resources available to her, the position of the ministry is that she had alternate resources to purchase the [stove]. Her support allowances are intended to be used for daily living expenses such as heating sources. She also has income from her employment and room and boarder.

The position of the appellant is that, with her home loan payments of \$1250/month, her resources are stretched to the limit, she has been refused a bank loan for the stove and has not been able to renegotiate her home loan. She has not yet been able to file a claim for the disability tax credit. All this results in her not having the funds, or access to credit, to purchase the stove.

For the reasons discussed under the first criterion, the panel finds the ministry reasonably took the position that the appellant's support allowances, plus her income allowed from other sources, are intended to be used for daily living expenses such as heating costs. In fact, this has what the appellant has done this winter, turning to electric heat. The panel acknowledges that while this way of heating her residence may not be optimal, resources were available to heat her residence. The panel therefore finds that the ministry reasonable determined that the appellant did not meet this criterion.

Imminent danger to health.

With regard to whether failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant, the position of the ministry is that failure to obtain the wood stove will not result in imminent or immediate danger to the appellant's health.

In her attachment to her Request for Reconsideration, the appellant challenges anyone living in a house to turn off the heat for a week to better understand her situation. At the hearing, she stated that her home is cold despite the electric heat she manages to be able to provide, but she is managing, though her boarder is ill. She stated that the situation surrounding this crisis supplement request is causing her much anxiety and this can have debilitating physical consequences.

The panel notes that it would be the absence of adequate heating that would give rise to an imminent threat to health. The failure to obtain the requested wood stove has been mitigated by the use of electric heat, without serious health consequences. The panel therefore finds that the ministry reasonably determined that that appellant's request did not meet this criterion.

As no children are in the appellant's family unit, the panel finds section 57(1)(b)(ii) of the EAPWDR is not applicable.

The panel therefore finds that the ministry decision to deny the appellant a crisis supplement for \$4000 for a wood stove and installation because she did not meet all the criteria under section 57(1) of the EAPWDR was reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry decision.