

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated February 10, 2012 which denied the appellant a crisis supplement to purchase a bed. The ministry determined that the appellant was not eligible to receive a crisis supplement under section 59 of the Employment and Assistance Regulation (EAR) as the crisis supplement was not required to meet an unexpected expense and that the item was not unexpectedly needed. The ministry also determined that alternative resources were available to the appellant to purchase the item and that failure to provide the item would not result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) - section 59

PART E – Summary of Facts

Prior to the hearing commencing it was determined that a panel member was not in attendance. After conferring with the Tribunal Office, the Panel Chair was informed that the panel member would be attending the hearing via teleconference instead of in person as planned. The ministry did not attend the hearing. After confirming that the ministry was duly notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Evidence before the ministry at the time of reconsideration included the following:

1. Hand written estimates from three suppliers (a) \$260.00; (b) \$299.00; (c) \$350.00 none of which included tax.
2. Crisis Supplement Request Form dated December 14, 2011.
3. Request for Reconsideration dated February 02, 2012.

In section 2 of the Crisis Supplement Request form the appellant states that he is applying for a crisis supplement because he needs a bed as he has been sleeping on an air mattress which is very uncomfortable, and now it has deflated. He states that the air mattress is cold and causing him more pain.

In section 2 of the of the appellant's Request for Reconsideration the ministry states that the appellant is a single person receiving income assistance whose file was reopened November 7, 2011. On December 14, 2011 the appellant requested a crisis supplement for a bed. The appellant was advised his request could not be processed without quotes. The appellant submitted three hand written prices to the ministry January 6, 2012.

Prior to the appellant's file being reopened he had contract work and was self supporting. The ministry contract Employment Program reported that the appellant left income assistance in May 2011 for employment of 40 hours per week making \$25.00 per hour. While employed the appellant's belongings that he had in storage were seized for not making payments. The appellant reported to the ministry that a bed was not one of the items seized by the storage company however he did not say when he last owned a bed and/or what happened to it. The appellant was advised that without this information his request could not be approved because over the last year he has had the means and the opportunity to obtain a bed, but failed to do so.

The appellant was advised that he failed to meet the eligibility criteria for Crisis Furniture for a bed as per section 4 of the Employment and Assistance Act and section 59 of the Employment and Assistance Regulation for the following reasons: "there is no unexpected need that contributes to this request." The appellant was advised that because he had not met criteria set out in legislation, the ministry was denying his request.

In Section 3 of the appellant's Request for Reconsideration he states that he applied back in the beginning of December 2011 for a bed and was refused. The appellant goes on to present arguments regarding the suppliers he had been in contact with and the price they had quoted him for a bed. He also presents arguments relating to his employment history along with his reasons for requiring a crisis supplement to purchase a bed.

On appeal the appellant presents arguments as to why he believes the ministry was not reasonable

in determining that he was not eligible to receive a crisis supplement for the purchase of a bed. He further states that he is on income assistance due to his injuries, not because he wants to be. At this point and time he states that he is struggling in life from an injury that happened at work. Unfortunately WCB has not accepted responsibility forcing him to rely on income assistance.

At the hearing the appellant restated much of the evidence contained in his Notice of Appeal along with arguments as to why he believes he is entitled to receive a crisis supplement. The appellant also submitted a copy of a ministry Medical Report Employability form dated February 21, 2012 which states his primary medical condition is depression and secondary medical condition is recurrent right shoulder dislocation. The physician describes these conditions as moderate with an expected duration of 1 to 3 months.

The panel admitted the appellant's written and oral testimony and the Medical Report Employability dated February 21, 2012 under section 22(4) of the Employment and Assistance Act as they were found to be in support of the information and records before the ministry at the time of reconsideration.

Findings of fact

- The appellant has been in continuous receipt of income assistance as a single employable person whose file was reopened in November 7, 2011.
- The appellant was not in receipt of income assistance from May 2011 through October 2011.
- The appellant has been diagnosed by a medical practitioner with moderate depression and recurrent right shoulder dislocation.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant did not meet the applicable statutory requirements to receive a crisis supplement for the purchase of a bed. Specifically the ministry was not satisfied that a crisis supplement was required by the appellant to meet an unexpected expense or that the item was unexpectedly needed. The ministry also determined that alternative resources were available to the appellant to purchase the item and that failure to provide the item would not result in imminent danger to the appellant's physical health. The ministry relied on the following legislation in arriving at their reconsideration decision.

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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 \$20 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 maximum set out in section 4 of Schedule A or 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) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the

amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, 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.

There is no dispute that the appellant is eligible to claim the crisis supplement under section 59(1) of EAR as he is currently a single employable person in receipt of income assistance.

As to the requirements set out in section 59(1)(a) of EAR the ministry's position is the crisis supplement was not required to meet an unexpected expense as the appellant was aware that he did not have a bed while he was employed and therefore the item was not unexpectedly needed. The ministry also argued that as the appellant had been employed for six months prior to his income assistance file being reopened, alternative financial resources were available to him to purchase the item while he was employed, and he chose not to do so.

The appellant's position was that he required a crisis supplement to meet an unexpected expense, the purchase of a bed, and that the item was unexpectedly needed. The appellant also argued that as he did not require the item prior to moving to a new residence in December 2012, and that at that time he was in receipt of income assistance, alternative resources were not available to him to purchase the item.

In the appellant's Notice of Appeal and in his oral testimony the appellant argued that although the ministry records indicate that he started working in a full time job in May 2011 earning \$25.00 per hour, this job only lasted three weeks. The appellant then argued that after this job ended he was only able to pick up spotty employment which provided him with a very minimal income. This continued until his preexisting injuries to his neck and right shoulder flared up once again in November 2011, necessitating his return to income assistance. The appellant further argued at the hearing that during the time he was employed his rental accommodation included a room with a bed. The appellant went on to state that in early December 2011 his landlord suffered a stroke for which he is still hospitalized. It was at this time the appellant decided he had to move. The appellant then stated that it was unfortunate, but the only accommodation he could find at the time did not include a bed. This resulted in the appellant being forced to sleep on an air mattress which he argues was very uncomfortable, aggravating his neck and shoulder injuries.

As to the unexpected expense to obtain an item unexpectedly needed. The panel finds the appellant's explanation regarding his reasons for not purchasing a bed during the time he was employed to be credible. The fact that a bed was provided for him by his landlord during that time and the fact that he was only making a subsistence income would both appear to be logical reasons for not purchasing an unnecessary item. As to the appellant's unexpected need for the item, the panel finds the appellant's argument that he had no way of foreseeing his landlord's long term hospitalization or his need to find a new place to live are both credible arguments. The panel also

finds that the appellant would not have had a way to foresee that his new accommodation would not include a room with a bed. The panel also notes in section 3 of the Crisis Supplement Request form that the appellant has made some effort to obtain a bed by asking around but was not able to find anything in good shape.

The panel next turned its attention to the matter of what resources were available to the appellant to purchase the item himself. The panel has given considerable weight to the evidence included in the appellant's Notice of Appeal, and his oral testimony, as both argue that while the ministry correctly states in their Summary of Facts on the Request for Reconsideration, and in the Reconsideration Decision itself, that the appellant started working full time in May 2011 at \$25.00 per hour. The appellant argued that this job only lasted for 3 weeks, after which he was only able to find spotty employment which provided him with a very minimal income. In late October or early November the appellant's preexisting injuries to his neck and right shoulder flared up once again necessitating his return to income assistance. The panel also finds no contradicting evidence indicating the appellant's written submission in his Notice of Appeal was not factual. The panel notes that the ministry had an opportunity to provide evidence and make a submission respecting the additional submission made to the Tribunal by the appellant, and declined to do so.

For the reasons noted above the panel finds the ministry was not reasonable in determining that the appellant's need for the item was not unexpected and that he had alternative resources available to him to purchase the item. The panel therefore finds that the ministry was not reasonable in determining that the appellant did not meet the statutory requirements set out in section 59(1)(a) of EAR.

As to the requirements set out in section 59(1)(b)(i) the appellant's position is that sleeping on an air mattress is not helping his injured shoulder or neck and he is also cold at night which is causing him to be stiff in the morning and he is not getting a good sleep. The appellant further argues that he needs a good clean bed as he is a severe asthmatic and is allergic to other people's dander and pet hair which cause him to have trouble breathing at night.

The ministry argued that no evidence was presented to verify that failure to meet the expense or obtain the item will result in imminent danger to the appellant's physical health.

The panel finds that while the appellant has provided oral testimony regarding his neck, right shoulder and asthmatic medical conditions, the only medical evidence submitted by a medical practitioner confirms a primary medical condition of moderate depression and secondary condition of recurrent right shoulder dislocation. There is no comment by the physician regarding how failure to provide the item requested will result in imminent danger to the appellant's physical health or mention of any other medical conditions. The panel therefore finds that the appellant did not meet the statutory requirements set out in section 59(1)(b)(i) of EAR.

As all three of the legislative requirements set out in section 59(1), 59(1)(a) and 59(1)(b)(i) of EAR must be met by the appellant in order to receive a crisis supplement, the panel finds the ministry's reconsideration is reasonably supported by the evidence, and confirms the ministry's decision.