

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of February 13, 2012 denying the appellant a crisis supplement to purchase a bed because the ministry determined that the appellant did not meet two of the three criteria set out under S. 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry held that

- the supplement was not required to meet an unexpected expense or obtain an item unexpectedly needed and
- there were resources available to the family unit to meet the expense.

PART D – Relevant Legislation

S. 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation.

PART E – Summary of Facts

The evidence before the ministry at reconsideration includes:

- 4 handwritten pages by the appellant giving her "Reason for Request for Reconsideration" and dated February 3, 2012. The appellant stated that her doctor informed her on January 30, 2012 that due to a tumor on her spine it was time for her to ask the ministry for a bed. Her bed at the time had been purchased second hand from a thrift store in 2006. It was sunken in the middle, the springs could be felt through the mattress, it was difficult to get out of. The springs dug into the appellant's back, causing her terrific pain. The bed sagged in the middle so much that it made it impossible for the appellant to get any sleep at all on it and she could barely function during the day as a result. She subsequently got rid of the bed and contacted the ministry for a crisis allowance for a replacement and her request was denied. Without a bed, she slept a borrowed couch, which was as uncomfortable as the bed, if not worse. She is scheduled for surgery in March to remove the tumor in her back and another tumor growing on her heart. She cannot afford the bed she needs.
- a note from the appellant's physician dated December 8, 2011 referring to the appellant, with the notation: Rx... Chiropractic treatments Dx... Chronic lumbar sprain.
- a note from the same physician dated January 30, 2012 stating: I recommend that she [the appellant] have a therapeutic bed or otherwise a new firm bed e.g. Sears-o-pedic or equivalent, due to her chronic painful back condition.
- a receipt for the bed purchased by the appellant in May 2006 for \$85.00.

After the date of the reconsideration decision and not included in the appeal record package, additional information was submitted:

- the appellant's "Reasons for Appeal" dated February 29, 2012, in which the appellant stated: "I can't afford it [a replacement bed] as I have major dental work I have to pay. (Plan only covers a small portion []). Bed [purchased by the appellant in 2006] was in 'top shape.' Bed was worth \$1,000. Was on special, that[']s why it was only \$85.00. Found a friend who can sell me [a bed for] \$250.00."
- a standard dental claim form from a dentist providing quotes for dentures for the appellant at a total estimated fee of \$2,800.00.
- At the hearing the appellant informed the panel that the bed which she purchased in 2006 had been damaged during a move in 2011, that her problems sleeping on the bed began only after the bed had been damaged in the move, and that she put up with the pain and the discomfort until sleeping on it became unbearable.
- Also at the hearing the appellant informed the panel that she had searched extensively to access community resources that might provide an adequate bed, including the Salvation Army and St. Vincent de Paul, as well as second-hand furniture stores, but without success. She also searched the papers for a second-hand bed but was unable to find what she needed.

Though the ministry representative at the hearing had no objection to the admission of the new information, he explained to the appellant that she should look for a dentist that charges not more

than the ministry's rates for dentures. The ministry representative also stated that the ministry had not been informed by the appellant of the damage to the bed from the move; nor had the appellant informed the ministry about her search to access community resources.

The panel found that the written information provided after the date of the reconsideration decision as well as the statements noted above of the appellant at the hearing contained information in support of the information and records that were before the minister when the decision being appealed was made. With respect to the quote for dentures submitted by the appellant, the panel finds that although the appellant's dental needs are not directly related to her need for a bed, they do relate to the appellant's ability to meet the expense of a bed. Therefore the panel determined that the items were admissible as evidence in accordance with the Employment and Assistance Act (EAA), Section 22 (4).

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision denying the appellant a crisis supplement to purchase a bed was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence, given that the ministry determined that the appellant did not meet two of the three criteria set out under S. 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry held that

- the supplement was not required to meet an unexpected expense or obtain an item unexpectedly needed and
- there were resources available to the family unit to meet the expense.

Relevant Legislation

S. 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)

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*.

With respect to S. 57 (1) (a) EAPWDR the ministry's position is that the appellant had requested an emergency crisis amount because the second-hand bed that the appellant purchased in 2006 had become too soft and the appellant could feel the springs through the bed and as a result was unable to sleep. The ministry's position is that it is not unexpected that a used bed would wear out in 5 years through normal wear and tear. Therefore the ministry could not confirm that the appellant would have an unexpected expense requiring a crisis supplement that was unexpectedly needed.

The appellant's position is that the need for a new bed was unexpected in that the bed purchased in 2006 was damaged during a move and her medical condition (tumor on her back) had worsened.

The evidence of the appellant is that the used bed she purchased in 2006 was in excellent shape and was worth \$1000.00 though she purchased it for only \$85.00 on special. The appellant stated at the hearing that before moving in 2011 she had no reason to expect the bed not to last several more years but that the bed was unexpectedly damaged during the move, so much so that after a while she was unable to sleep on it without enduring great pain. Given the evidence of the appellant, the panel determines that the ministry's decision that the appellant did not meet the condition of S. 57 (1)

(a) EAPWDR, with respect to requiring to meet an unexpected expense or obtain an item unexpectedly needed, was not reasonably supported by the evidence.

Also with respect to S. 57 (1) (a) EAPWDR, the ministry contends that the appellant had not shown that there were no resources available to the family unit to meet the expense. Specifically the appellant did not advise or provide confirmation that she tried to access community resources including Salvation Army and St. Vincent de Paul. The ministry also contends that the appellant has financial resources available to her for the purchase of a bed. The ministry points out that as a Person with Disabilities the appellant receives a higher support rate that is meant to budget for additional expenses including the purchase of a bed. The ministry states that the appellant's rent is \$400.00 month and she receives \$906.42 monthly for disability assistance.

The appellant testified at the hearing that she had searched extensively to access community resources that might provide an adequate bed, including the Salvation Army and St. Vincent de Paul, as well as second-hand furniture stores, but without success. She also searched the papers for a second-hand bed but was unable to find what she needed. As well, the appellant stated that among her friends and family no one has the money to buy her the bed she needs. She also stated in her 'Reasons for Appeal' and at the hearing that she was facing a major medical expense for dentures, as confirmed by the dental estimate by a dentist.

Regarding the appellant's statement that she has major dental work which she must pay for in order to obtain dentures, the panel notes that the form she submitted from the dentist is a quote for work that needs to be done, and that the ministry representative at the hearing advised the appellant to try to find a dentist who charges rates no higher than the ministry's scheduled rates, so that she will not have to pay for the dentures out of her own money from assistance. At the hearing the appellant stated that she did not think she would be able to find a dentist who charged lower rates than those she was quoted, but agreed to try to locate a dentist with lower rates. The panel therefore finds, with respect to the dental expenses she faces, that she has not sufficiently explored alternatives to obtain the dentures at no expense to herself.

The panel finds, however, that in order to determine if the ministry's decision was reasonable, it must address the ministry's contention in its reconsideration decision that the appellant had sufficient resources from her monthly assistance to pay for the bed.

With respect to the ministry's contention that the appellant could have afforded to pay for a bed by saving or budgeting from her monthly disability allowance: the panel finds that the ministry's position is reasonable only on the assumption that the appellant expected to have to buy a new bed in 2012 and therefore should have been saving up for the bed from her monthly allowance sufficiently prior to 2012 to allow her to purchase a bed. The evidence of the appellant at the hearing, however, is that she did not expect that she would need to buy a new bed in 2012 but needed to do so only because the bed she had purchased in 2006 was unexpectedly damaged in a move and the tumor on her back became worse so that the damaged bed could not support her adequately and as a result her doctor recommended she have a therapeutic bed or otherwise a new firm bed.

Given that the panel has found that the purchase of a new bed was an unexpected expense and given the appellant's statement that she searched extensively to access community services, the panel finds that the ministry's decision that the appellant has the resources available to her was not

reasonably supported by the evidence.

In summary the panel finds that the ministry's decision that the appellant did not meet the conditions of S. 57 (1) (a) EAPWDR was not reasonably supported by the evidence. With respect to S. 57 (1) (b) (i) EAPWDR the ministry determined in its reconsideration decision that not having a bed with proper support will result in imminent danger to the appellant's health.

Therefore the panel finds that ministry's decision that the appellant did not meet all the criteria under S. 57 EAPWDR was not reasonably supported by the evidence, and the ministry's decision is overturned in favor of the appellant.