

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's reconsideration decision dated February 13, 2012 which held that the appellant is not eligible for a crisis supplement for telephone and internet services under section 57 of the Employment and Assistance for Persons with Disabilities Regulation because: the need for telephone and internet services cannot be considered as unexpected expenses; the appellant had alternate resources to pay for these services; and that failure to obtain these items will not result in imminent danger to the physical health of the appellant.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Section 5.

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57.

PART E – SUMMARY OF FACTS

The evidence before the ministry at reconsideration consisted of :

- Goods and Services Tax Credit Notice for the appellant dated October 5, 2011, No payment issued - Credit transferred to Canada Student Loans;
- Goods and Services Tax Credit Notice for the appellant dated January 5, 2012, No payment issued - Credit transferred to Canada Student Loans;
- Installment Plan Notice for hydro beginning November 14, 2011 for appellant's payments;
- Notice of Assessment from Canada Revenue Agency for Tax Year 2010 for the appellant;
- Income Tax and Benefit Return for Year 2009 for the appellant;
- Appellant's Bank Statement with the transaction history from October 3, 2011 until January 27, 2012 with a note that states the appellant had to shop at a convenience store because her car had broken down;
- Receipt to the appellant dated January 1, 2012 for \$705 which included \$685 for rent and \$20 for parking;
- An undated note from the appellant indicating that that her HST rebates were garnished and applied to her student loan reducing her expected income by \$286.06. This was cited as the reason for not repairing her car. She also indicates that she will have to borrow money to pay a hydro bill of \$10.73 and has no money to pay other bills or for food this month.
- A bill from a cable company indicating a carry forward balance from October 27, 2011 of \$281.86;
- A bank notice dated September 12, 2011 indicating that the appellant had not made a minimum monthly payment of \$64.16 on her account;
- A letter from the Canada Student Loans Program to the appellant acknowledging receipt of her application for the Permanent Disability Benefit, dated November 3, 2011;
- A receipt for a car battery for \$153.12 dated July 28, 2011;
- A receipt for payment of \$75 to the appellant's cable company dated November 23, 2011;
- A 5 page letter from the appellant dated December 20, 2011 concerning her Request for Reconsideration;
- A letter from the appellant's physician dated December 28, 2011;
- A letter from the appellant's social worker dated January 13, 2012;
- A Request for Reconsideration dated December 30, 2011 in which the appellant explains that she has been overspending as she is unable to see how much money is in her account without internet access. She receives e-bills and cannot ever think of a phone service that is not digital-based. The appellant indicates that this is not an ongoing problem as she can afford her bills when they aren't piled up due to a needed car repair. The appellant adds that she ended up in emergency after trying to walk to the hospital to get her medication. The appellant states that she has no 911 capacity, cannot call her doctor, pharmacy or bank and is cut off from family support and her few friends.

The 5- page letter from the appellant begins by requesting the crisis supplement to restore her digital phone and basic internet services. She explains that she can normally afford these services; however when her car broke down; she panicked and immediately spent all her bill money to try to restore the transportation that she deems crucial to her survival. The new battery cost the appellant \$153.12 and another \$230 was needed for a rebuilt alternator. Expecting, but not receiving her tax rebate; she

thought she would be able to catch up with her bills. She now makes only "good faith payments" on her utility bill. The appellant, who was used to e-bills with her cable company, now gets a paper version which she finds confusing. She has asked for the ministry to help her to straighten out her account with the cable company. She lost her telephone service along with her phone # which she has had for 17 years and has special significance to her. The appellant explains that her disability is such that she is unable to sit upright and that her phone and internet are vital for the following 13 reasons:

1. They represent sole contact with the outside world,
2. Not being able to sit upright prevents her from using the computer at the library,
3. She has 13 prescriptions that she re-orders via telephone or internet,
4. There is no place to buy food within walking distance,
5. There are no bank machines with available parking anywhere near where she resides,
6. All eating and drinking is done on the appellant's back,
7. She is prone to falling,
8. She counts on the phone to solicit health advice, access to support services, emotional support and financial assistance from friends and family,
9. She needs to check in regularly with the housing registry,
10. She doesn't have access to her Work Safe file without internet access,
11. All of her financial activity has to be done on line,
12. She conducts online research in medical journals to assist her doctor and
13. She relies on 3 free internet sites for liquidating personal assets in order to make ends meet.

The letter of support from the physician indicates that the appellant has both a motor nerve dysfunction to her weight bearing and walking, on the right side as well as severe chronic pain. She is unable to use a wheelchair and is confined to her apartment. The physician adds that she can only relax on her side in bed or on a zero gravity recliner. Without phone and internet services, the physician states that the appellant is physically and mentally cut off from the world.

The letter of support from the social worker indicates her belief "that a person with a medical condition that confines them to their home should have a way to call for help in the event of a medical emergency, contact their doctor, speak with their pharmacist, etc."

The ministry in its reconsideration decision notes that telephone and internet bills are ongoing monthly expenses and that the appellant is expected to pay for using the services; therefore these bills cannot be considered unexpected expenses. Also, the ministry notes that it is expected that bills would pile up when regular scheduled monthly payments are not made and based on the information provided; the ministry cannot establish that the appellant's request for a crisis supplement for telephone and internet bill payment is an unexpected expense or an item unexpectedly needed.

Additionally, the ministry noted that the receipt submitted for a battery for \$153.12 had a transaction date of July 28, 2011. A review of the appellant's file indicates that the ministry issued the appellant a cheque for \$250 on November 15, 2011 to cover the cost of repairs done to her vehicle, which should have covered the full cost of a rebuilt alternator. Furthermore, the ministry issued a cheque for \$85.87 on November 14, 2011 to cover the cost of the hydro bill and the appellant also received her full disability assistance of \$946.42. The ministry determined that the appellant had resources available to her and therefore, has not met the criteria of the legislation that there were no alternate resources available to her.

The ministry also acknowledged that the appellant has certain limitations as a result of her medical condition however; finds that that the information did not establish that failure to provide the appellant a crisis supplement to restore telephone or internet services would result in imminent danger to her

physical health. The ministry concludes that; it had provided the appellant with resources to cover the cost of repairs to her vehicle which she chose not to use to repair her vehicle; and that the appellant also chose not to pay for her accrued telephone and internet bill, claiming that those funds were used to cover the repairs to her vehicle. Finally, the ministry could not conclude that failure to provide the appellant with a crisis supplement to restore telephone or internet services would result in imminent danger to the appellant's physical health.

The appellant and the ministry were not in attendance at the hearing. After confirming that they were both notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Findings of Fact

- The appellant is a single recipient of disability assistance.
- The appellant receives \$375 in shelter allowance, \$531.42 in support allowance and \$40 for vitamins supplement with a total monthly allowance of \$946.42.
- The ministry issued a cheque for \$85.87 on November 14, 2011 to cover the cost of the appellant's hydro bill.
- The ministry issued the appellant a cheque for \$250 on November 15, 2011 to cover the full cost of a rebuilt alternator.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reasonably determined that the appellant is not eligible for a crisis supplement for telephone and internet services under section 57 of the Employment and Assistance for Persons with Disabilities Regulation because: the need for telephone and internet services cannot be considered as unexpected expenses; the appellant had alternate resources to pay for these services; and that failure to obtain these items will not result in imminent danger to the physical health of the appellant.

Relevant Legislation**Section 5 of the EAPWDA deals with Disability assistance and supplements and states:**

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.

Section 57 of the EAPWDR deals with Crisis Supplements and states:

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.

(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.

The ministry argues that the appellant did not meet the legislated requirements of section 57 of the EAPWDR because; the need for the item was not unexpected and the need for telephone and internet services cannot be considered an unexpected expense; the appellant had alternate resources to pay her bills, and that failure to provide the appellant with a crisis supplement to restore telephone or internet services would result in imminent danger to the appellant's physical health.

The appellant argues for the ministry to help her with the dilemma of straightening out her account with the cable company and to help obtain her telephone service and her phone # which she has had for 17 years and has special significance. The appellant explains that her disability is such that she is unable to sit upright and that her phone and internet are vital for the following 13 reasons: 1. They represent sole contact with the outside world, 2. Not being able to sit upright prevents her from using the computer at the library, 3. She has 13 prescriptions that she re-orders via telephone or internet, 4. There is no place to buy food within walking distance, 5. There are no bank machines with available parking anywhere near where she resides, 6. All eating and drinking is done on the appellant's back, 7. She is prone to falling, 8. She counts on the phone to solicit health advice, access to support services, emotional support and financial assistance from friends and family, 9. She needs to check in regularly with the housing registry, 10. She doesn't have access to her Work Safe file without internet access, 11. All of her financial activity has to be done on line, 12. She conducts online research in medical journals to assist her doctor and 13. She relies on 3 free internet sites for liquidating personal assets in order to make ends meet.

With regard to the first criterion, the panel finds that the monthly bill for telephone and internet services did not come unexpectedly or without notice, as the appellant indicated that she had the same phone number for 17 years. Therefore, the panel finds that the ministry reasonably determined that the need for a crisis supplement to pay for accrued telephone and internet services cannot be considered an unexpected expense pursuant to section 57(1)(a) of the EAPWDR.

With regard to the second criterion, the panel finds that the evidence does indicate that the appellant did not have alternate resources from a refund of GST and/or HST due to her outstanding student loan. However, the panel also finds that the appellant did receive her full monthly PWD benefits of \$946.42, as well as receiving \$250 from the ministry to fully pay for a rebuilt alternator which the evidence does not show was used accordingly and an additional cheque for \$85.87 on November 14, 2011, to cover the cost of her hydro bill. Therefore, the panel finds that the ministry was reasonable to conclude that there are resources available to the family unit based on those reasons

pursuant to section 57(1)(a) of the EAPWDR.

With regard to the third criterion, the panel acknowledges that the appellant has a severe medical condition, and her physician confirms that without phone and internet services the appellant is physically and mentally cut off from the world. However; there was no medical evidence presented to indicate that failure to meet the expense would result in imminent danger to the physical health of the appellant. Therefore, the panel finds that the ministry reasonably determined that the appellant did not meet the legislated requirement pursuant to section 57(1)(b) of the EAPWDR.

In applying the legislation to the facts of the case, the panel finds that the ministry reasonably determined that the appellant does not meet all the legislative criteria for receiving a crisis supplement and confirms the ministry decision.