

## PART C – Decision under Appeal

The decision under appeal is the ministry reconsideration decision of April 19, 2012 to deny the appellant a crisis supplement for a mattress. The decision was based on Employment and Assistance for Persons with Disabilities Act, Section 5 and Persons With Disabilities Regulation S. 59 which states that a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made. The ministry found that the appellant's need for a new mattress was not an unexpected expense or that the appellant needed to obtain the mattress unexpectedly, or that the appellant had no resources available to purchase the mattress on her own or that failure to provide the item would result in imminent danger to her physical health. The ministry also notes that the appellant made her initial request to the Residential Tenancy Branch for replacement in January 2012 and then applied to the ministry in April 2012.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act  
Section 5

Employment and Assistance for Persons with Disabilities Regulation Section 57

## PART E – Summary of Facts

At the start of the hearing the appellant stated she did not have the appeal package to refer to as it had been sent to an address in another city. The appellant has never lived in another city and does not know how this address became associated with her file.

The chair asked the appellant if she was comfortable proceeding with the appeal without the documentation and she stated yes she was. The ministry and the panel also agreed to proceed.

The evidence before the ministry at the time of reconsideration was:

- A letter dated 06 April 2012 from the appellant's physician stating that she has a history of arthritis and has had a knee replacement, Hepatitis C and chronic pain and that she needs a bed for regular sleeping.
- An Employment and Assistance Request for Reconsideration form dated 10 April 2012, completed by the appellant, in which she outlines her reasons for needing the crisis supplement for a new mattress.
- An Employment and Assistance Reconsideration Decision dated 19, April 2012.
- A notice of Appeal dated 08 May 2012.

The appellant provided the panel with her oral statement in which she outlined the reason she requires a new bed, as her bed was damaged when a leaky pipe damaged her bedroom walls and mattress, which then turned moldy. The landlord repaired the walls, but declined to replace the mattress as he did not carry contents insurance on his building. The appellant states that she was refused a new bed by the Residential Tenancy Branch and that she has been looking for a free bed for months from a variety of agencies in the town where she lives but has not been successful in locating one. She has been without a bed since November 2011 when she left her previous residence and moved into a new apartment where she is sleeping on the couch. She states that she did not know that she could apply to the ministry for funding for the bed until a friend told her about it or she would have applied sooner.

The appellant states that she does not have sufficient funds to purchase a bed as her monthly income assistance cheque is in the amount of \$946.42 which consists of shelter (\$375) support (\$531.46) and dietary allowance (\$40) and her monthly expenses are rent (\$500), Bell Express view (\$80), Hydro (\$140) or more and telephone (\$40) to (\$50) each month. This leaves the appellant with \$176 per month for food and other expenses. She also states that if she had known that it was possible to get assistance for a bed, she would have pursued this much sooner.

The appellant states that she is on disability and has a bad back, a knee replacement and problems with her hips. The physician states that the appellant has a history of arthritis and has had a knee replacement and she has Hepatitis C with chronic pain. The note from the appellant's physician was written on a prescription pad and states that the appellant requires a bed for regular sleeping.

The ministry submits that Section 57 of the Employment and Assistance for Persons with Disabilities Regulation is clear and maintains that in order to be eligible for a crisis supplement, the appellant must demonstrate that there is an unexpected expense or that the appellant was unable to plan for the expense. The appellant must have no resources to purchase the item on their own and that failure to provide the item will result in imminent danger to physical health.

The ministry states that the support portion of assistance rates (\$531.42) is provided for

monthly expenses other than shelter which is provided at (\$375.00). The support portion of assistance is provided for monthly expenses and the replacement of a mattress is considered as such.

The ministry acknowledges the medical note, however the information in the note does not imply or suggest that without a mattress, there is imminent danger to the appellant's health.

The EAPWDR 59 (2) states that a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

The ministry maintains that the appellant made her original request to the Residential Tenancy Branch in January 2012 and then waited until March 28 to make a request to the ministry and therefore the ministry is unable to make a consideration because it is not within the timeframe as the need was unexpected in January if not earlier.

The ministry also maintains that the appellant has not demonstrated that she does not have any other resources available to her or that she has sought community resources for assistance. The appellant is in arrears in her payments for Hydro and Satellite and acknowledged that speaking to a debt counselor might be beneficial for her.

**PART F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's decision to deny a crisis supplement for the appellant to purchase a new mattress was a reasonable application of the applicable legislation in the circumstances of the appellant or reasonably supported by the evidence.

**Employment and Assistance for Persons with Disabilities Act  
Section 5****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 Section 57****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*.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

[am. B.C. Reg. 13/2003.]

The appellant states that she requires a new mattress because her previous apartment had a plumbing leak which made her mattress moldy. Her landlord repaired the plumbing but did not have insurance to cover the cost of a new mattress for her. She told the panel that she on disability and has a bad back, a knee replacement and problems with her hips. The physician states that the appellant has a history of arthritis and has had a knee replacement and she has Hepatitis C with chronic pain. The note from the appellant's physician was written on a prescription pad and states that the appellant requires a bed for regular sleeping.

The ministry maintains that the appellant was aware that she would require a new mattress for some months and that she should have been able to pay for a mattress as the support portion of assistance rates (\$531.42) is provided for monthly expenses other than shelter which is provided at (\$375.00). The support portion of assistance is provided for monthly expenses and the replacement of a mattress is considered as such. The ministry acknowledges the medical note, however the information in the note does not imply or suggest that without a mattress, there is imminent danger to the appellant's physical health.

The panel finds that the appellant was aware of the plumbing leak in her apartment and the subsequent moldy mattress in January 2012, when she contacted the Residential Tenancy Branch, if not earlier, and did not contact the ministry before March 28, 2012. The need for the new mattress was therefore not unexpected.

The panel finds that the appellant should have been able to budget for a new mattress even before she decided to move as she knew her mattress was moldy and her income assistance provides for shelter, support and dietary allowance. The support portion of the appellant's assistance is meant to provide for monthly expenses other than shelter. The appellant has also not provided any documentation that would confirm that she has no other resources available to her which would enable her to purchase a mattress. The appellant told the panel that she had been looking for a bed for months but could not find one. She did not however, provide any documentation to support this.

The physician states that the appellant has a history of arthritis and has had a knee replacement and she has Hepatitis C with chronic pain and then simply states that she needs a bed for regular sleeping. The panel finds there is no evidence in this report that the appellant's physical health will be in imminent danger without the mattress.

The panel found that although the appellant's circumstances are unfortunate, the documentation provided did not meet any of the requirements set out in the legislation EAPWDR Section 57 which is stated above.

The panel concurred with the ministry's summary of the legislative criteria, and therefore the panel confirms the Reconsideration Decision as a reasonable application of the legislation in the appellant's circumstances.