

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development (“the ministry”) which determined that the appellant was not eligible for a crisis supplement for a furnace because the legislation, s. 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), does not allow for the provision of a crisis supplement for a family unit that is in receipt of Medical Services Only (MSO) benefits.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), s. 57

PART E – Summary of Facts

The evidence before the ministry at reconsideration is as follows.

On June 29, 2011, the appellant requested funding for furnace repairs which were approved by the ministry in the amount of \$626.08 on July 20, 2011.

On February 21, 2012 the appellant, who has MSO status, requested assistance to purchase a replacement furnace. The appellant reported that he has a monthly income of approximately \$1930 per month comprised of his and his spouse's pension income. The appellant advised that he had looked into a home owner assistance program and had approached two banks for funding but without success. The appellant's request for assistance to purchase the furnace was denied on this date by the ministry.

On March 4, 2012, the appellant provided the ministry with a physician's note in support of his request for assistance to purchase the replacement furnace.

On April 24, 2012, the appellant advised that he attempted to obtain financing from both his gas provider and private furnace sellers without success and again requested a crisis supplement to purchase a replacement furnace.

On May 1, 2012, the appellant requested reconsideration of the ministry's denial for assistance to purchase a replacement furnace.

On May 17, 2012 the appellant submitted his Request for Reconsideration form which states, in part, that he and his spouse are unable to raise the funds required to replace the furnace and that they find themselves again at the mercy of the government. It is also noted that the appellant suffers from a head injury and is experiencing severe headaches due to the confusion and stress over this matter.

On appeal, the appellant provided a written submission outlining household, personal, and medical expenses he and his spouse have noting that, in the past, the ministry provided funding for a new roof and furnace repairs and that, in the twenty years of living in their home, the appellant and his spouse have rarely turned to the ministry for help. The panel determined that the appellant's written submission contained further information respecting the appellant's need for a replacement furnace and was therefore admissible under s. 22(4) of the Employment and Assistance Act as written testimony in support of the information and records before the ministry at reconsideration.

The panel makes the following findings of fact:

- 1) The appellant receives MSO benefits;
- 2) The appellant is not in receipt of disability assistance; and
- 3) The appellant is not in receipt of hardship assistance.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant a crisis supplement for a furnace is reasonably supported by the evidence or a reasonable application of the legislation.

The relevant legislation 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*.

The appellant's position as set out in the written record is that he is in need of the furnace to meet the basic need for heat, has no other resources with which to meet the need due to other household and medical expenses, and has been provided with ministry funding in the past for both a new roof and furnace repairs. Additionally, the appellant argues that ministry guidelines are not rules and can be adapted to suit the emergency situation of requiring a new furnace.

The ministry's position as set out in the written record is that although the appellant's request for funding for a new furnace meets the three additional criteria for a crisis supplement set out in s. 57(1), the requirement that a family unit be eligible for disability or hardship assistance has not been met because the appellant's family unit is in receipt of MSO benefits not disability or hardship assistance. The ministry acknowledges that the appellant previously received a crisis supplement while receiving MSO benefits.

Pursuant to s. 57 of the EAPWDR, one of the criteria for the provision of a crisis supplement is that the family unit be eligible for either disability or hardship assistance. Although the ministry has accepted that the appellant's request for a crisis supplement for a replacement furnace meets the remaining eligibility criteria set out in s. 57 including that the need for the item be unexpected and that there are no available resources to meet the need, all of the eligibility criteria must be met. That the appellant's family unit is not in receipt of either disability or hardship assistance is not disputed.

Consequently, the panel finds that the ministry has reasonably determined that the appellant is not eligible for a crisis supplement to purchase a new furnace because all of the eligibility criteria of s. 57 of the EAPWDR have not been met.

The panel considered the appellant's argument that he should be eligible for a crisis supplement to purchase a replacement furnace on the basis that he has been provided with a crisis supplement to meet other house repair needs, roof and furnace repairs, at a time when he had MSO status. The ministry acknowledges the provision of a crisis supplement in the past to the appellant when he had MSO status. The panel finds that while the ministry's own evidence confirms that the appellant was issued a crisis supplement for furnace repairs in 2011, in apparent contravention of s. 57 of the EAPWDR, this alone does not establish that the ministry had a regular pattern of providing crisis supplements sufficient to result in a reasonable expectation of the provision of crisis supplements on an ongoing basis. There is insufficient evidence before the panel to establish that each and every prior request for a crisis supplement made by the appellant while in receipt of MSO benefits was approved or that the frequency and nature of the requests for crisis supplements prior to the request for a replacement furnace were such to establish a reasonable expectation.

In conclusion, the panel finds that the ministry's reconsideration decision to deny the appellant a crisis supplement was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances and confirms that decision.