

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's reconsideration decision dated July 18, 2012 which held that the appellant is not eligible for a crisis supplement to purchase food under section 57 of the Employment and Assistance for Persons with Disabilities Regulation because: the need for food is not considered an item that is unexpectedly needed; the appellant had alternate resources to obtain food; and that failure to obtain this item 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 the request for reconsideration dated July 13, 2012 in which the appellant states that she is a diabetic and that food is essential for her diet. Also, the appellant indicates that she is on "low income assistance" and requests an increase to her monthly assistance.

The ministry in its reconsideration decision notes that the appellant has requested a crisis supplement for food as she is a diabetic and that food is essential for her diet. The ministry also notes that the appellant argues that because she is on "low income assistance", she has no funds left to purchase food. However, the ministry found that there was no indication of an unexpected expense and that food is not considered an item that is unexpectedly needed. Additionally, the ministry found that the appellant had not accessed community resources and concluded that failure to meet the expense will not result in imminent danger to the appellant's health.

The ministry also indicates that the appellant's request for her monthly cheque to be raised is a separate issue and is not therefore addressed with her request for a crisis supplement.

During the tele-conference, the appellant explained that each month she receives 2 diabetic hampers that last up to 2 ½ weeks, leaving her without food for 2 weeks and that she doesn't have enough money to buy food, especially meat. The appellant states that she did use the food bank which has recently burnt down however, it was often short of food items and now she must travel to temporary locations to access food. In response to a question about "low income assistance", the appellant clarified that she has a long term pay back contract with the ministry and that she is on disability assistance and that the ministry also provides a monthly diet allowance of \$40.

During the tele-conference, the ministry confirmed that the appellant's request for a crisis supplement for food did not indicate that she was going through a time of budgeting difficulty. The ministry also stated that the appellant could obtain 3 meals per day, 7 days of the week from a variety of churches or community groups in her area. The ministry added that the appellant has a debt with the ministry and that \$20 is deducted from her monthly support and that the ministry also directs another \$20 of the appellant's disability assistance to her landlord in order to supplement her rent payment.

The appellant argues that only one community group offers free meals on Tuesdays and Thursdays however, the others charge \$3 per meal. She adds that she does obtain fruit and vegetables from a local church however, she is restricted to take 1 or 2 pieces of what is available. The appellant states that she only has coffee for breakfast and lunch and one meal at supper.

The panel did admit the appellant's and the ministry's oral testimony as it was evidence given to directly support the information and records before the ministry at reconsideration under section 22(4) of the Employment and Assistance Act.

Findings of Fact

- The appellant, subject to the regulations, is eligible for disability assistance and supplements.
- The appellant does access community resources for food.

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 to purchase food under section 57(1) of the EAPWDR because the need for food cannot be considered an unexpected expense; and that the appellant had alternate resources to obtain the item; and that failure to provide the item will result in imminent danger to the appellant's physical health.

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 food cannot be considered an unexpected expense, there was no indication that the appellant had accessed community resources to obtain the item and that failure to provide the item would result in imminent danger to the appellant's physical health.

The appellant argues that she does access community resources for food however, does not obtain enough food to last for the month and doesn't receive enough disability assistance to purchase additional food items and meat in order to meet her diabetic needs.

With regard to the first criterion, the panel finds that the need for food did not come unexpectedly or without notice, as the appellant had been diagnosed with diabetes about six months ago and has since been provided with a monthly diet allowance of \$40. Therefore, the panel finds that the ministry reasonably determined that the need for food 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 does not have alternate resources and that she does make use of community resources. Therefore, the panel finds that the ministry was not 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 is a diabetic however, there was no medical evidence presented to indicate that failure to meet the expense or obtain the food item 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.