

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 23, 2012 which held that the appellant did not meet the statutory requirements of section 59(1) of the Employment and Assistance Regulation (EAR) to qualify for a crisis supplement to purchase a bed. While the ministry found that the appellant had no resources to purchase the bed on his own, it denied the crisis supplement as the evidence before it did not establish that the request was required to meet an unexpected expense or to obtain an item unexpectedly needed. Further, there was no information provided to establish that failure to meet the expense would result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 59

PART E – Summary of Facts

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

- June 2008 file opened on appellant as a single recipient.
- August 8, 2012 the appellant is advised that he is not eligible for a crisis supplement for furniture.
- August 14, 2012 the appellant submits a Request for Reconsideration. The appellant indicates he is 54 years old, is free of drugs and alcohol for 27 months and capable of working. He reports that because there was no work where he previously lived he moved to a new location in the hopes of being employable. His former accommodation was furnished. At his new accommodation there is no furniture and he requires a bed in order to sleep and not get sick so that he can be strong enough to work.

In his Notice of Appeal (NOA) dated August 29, 2012 the appellant reports that he would like help getting strong enough to work and that he cannot look for work if he is sleeping outside.

At the hearing, the appellant spoke about his long time abuse of drugs and alcohol over a 10 year period that has left him with a lot of damage. He also reports that he is tired of being on welfare and wants to get back to work. He outlined in some detail that prior to moving to his new location he and a friend did some diligent research using a computer to secure suitable furnished accommodation at the new location. Because he was living in furnished accommodation at his former location, he wanted a similar arrangement at the new location. On arrival at the new location this arrangement fell through and he was forced to live temporarily in a homeless shelter. However, several weeks later he secured rented accommodation that was unfurnished and made a crisis supplement request to the ministry for a bed and, at the time, explained to the ministry the above circumstances of his predicament. The appellant made attempts to find a bed through community resources, but was advised he needed ministry approval. The appellant spoke about issues regarding his back pain that some medical practitioners have speculated might be nerve damage. The appellant believes it is an issue with his back muscle. The back pain has previously been relieved through the use of back muscle relaxant medication about 10 days a year when it flared up and the use of two mild pain killers like aspirin. The appellant states he has been permanently on the medication lately because of his living conditions, but recently acquired an air mattress to sleep on and which is slowly helping his condition.

The appellant's NOA above and his oral testimony was admitted by the panel as evidence under section 22(4) of the Employment and Assistance Act (EAA) as evidence in support of the information and records before the ministry at the time of reconsideration. The appellant's oral testimony provided a greater degree of clarity regarding the reasons for his crisis supplement.

At the hearing, the ministry stood by the record. The ministry noted that a bed is a standard expectation and that the appellant chose to move from his former location. It acknowledged and took no exception to the appellant's testimony that he had taken steps to prevent relocation to unfurnished accommodation by securing furnished accommodation ahead of time. The ministry also acknowledged that the appellant may not have anticipated on arrival that his plan for furnished accommodation would fail and accepted that he likely may have explained this at the time of his request. However, the ministry noted there is no medical evidence to indicate that by not having a

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bed that the physical health of the appellant is in imminent danger.

PART F – Reasons for Panel Decision

At issue is the reasonableness of the ministry's decision to deny the appellant a crisis supplement for a bed on the basis that he failed to meet all of the legislative criteria. While the ministry determined that the appellant had no resources to budget the item, it denied the crisis supplement under Section 59 of the EAR as the evidence before it did not establish that the request for a bed was an unexpected expense or was an unexpected item of need. It also found that failure to meet the expense would not result in imminent danger to the appellant's health

Section 59 (1) of the EAR states:

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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, and

(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.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

The appellant argues he moved from furnished accommodation in one location to unfurnished accommodation in order to find work. He submits that it was his intention before leaving his former location to move into furnished accommodation in the new location and that the arrangements he made for this fell through when he arrived. As a result, his need for a bed was unexpected and he needs one in order to sleep and maintain his health in order to work and he has no resources to purchase one.

The ministry argues the need for a bed cannot be considered an unexpected expense or an item unexpectedly needed as the appellant's decision to move from furnished to unfurnished accommodations did not create an unexpected expense. The ministry also argues there was no medical evidence or information provided about this matter to substantiate that failure to meet the expense would result in imminent danger to the appellant's health

There are three criterion within the legislation that must be met before the ministry may provide a crisis supplement.

The first criterion is that the supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed. In the circumstances of the appellant the panel finds the appellant's oral testimony credible that he made advanced plans to secure furnished accommodation before moving to the new location. The appellant's testimony and his description of encountering the transition from

furnished accommodation in his former dwelling to that of a homeless shelter was persuasive in assessing his credibility. As a result, the panel finds that because the appellant's arrangement for furnished accommodation failed, his need for a bed came unexpectedly or occurred with notice. The appellant made a personal decision and choice to move from furnished accommodation in one city to unfurnished accommodation in another city to find work. Prior to making this move the appellant contends that he thought he had secured new furnished accommodation. However, when he arrived in the new city this accommodation fell through. After spending several weeks in a homeless shelter while unsuccessfully looking for furnished accommodation he chose to settle in an unfurnished apartment unit further precipitating an unexpected need for a bed. As a result, the panel finds the appellant's need for a bed came unexpectedly and was unexpectedly needed. The panel finds, therefore, that the ministry was not reasonable in its finding that the appellant's need for a bed was not an unexpected expense or not unexpectedly needed.

The second criterion is that there are no resources available to the appellant to meet the expense of a bed. The ministry found that the appellant met this criterion through information provided by him. Therefore, this criterion was met.

The third criterion is that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant. The panel finds there is no evidence, medical or otherwise, showing that at the time of the appellant's request for the crisis supplement a failure to provide the bed would result in imminent danger to his physical health. The panel finds that the ministry reasonably determined it has not been demonstrated that failure to purchase the bed will result in imminent danger to health.

The panel finds that the ministry reasonably determined the appellant has not met all the legislative criteria for the provision of a crisis supplement. As a result the panel confirms the reconsideration decision as a reasonable application of the legislation and was reasonably supported by the evidence in the circumstances of the appellant.