

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated June 20, 2012 which denied the appellant's request for a crisis supplement to cover shelter costs. The Ministry held that the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met as the ministry found that shelter costs are not an unexpected expense and there was not sufficient information to establish that failure to meet the expense will result in imminent danger to the physical health of any person in the appellant's family unit.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAPWDR), Section 59

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) 10-Day Notice to End Tenancy for Unpaid Rent or Utilities dated June 6, 2012 for rent in the sum of \$491.00 plus a late fee of \$25.00; and,
- 2) Request for Reconsideration- Reasons prepared by an advocate on the appellant's behalf.

At the hearing, the appellant provided a letter prepared by his advocate and signed by his physician on August 11, 2012. The letter states in part that the appellant has a damaged valve in the left ventricle of his heart, that he is a regular outpatient at a hospital cardiac care unit, and that he must attend the lab two times per week for testing. In response to the question whether failure to provide a crisis supplement to prevent eviction and resulting homelessness would cause imminent danger to the appellant, the physician answers "yes." The ministry did not object to admission of the letter. The panel reviewed the letter and admitted it, pursuant to Section 22(4) of the Employment and Assistance Act, as providing further information regarding the impact to the appellant and being in support of information that was before the ministry on reconsideration.

In his Notice of Appeal, the appellant stated that he did not know that he needed his doctor's supplement. In the Request for Reconsideration, the appellant stated that he has a damaged valve in his heart and is a regular outpatient at a cardiac care clinic. The appellant stated that his clinic appointments occur sometimes two times a week to once every two weeks and he also attends two appointments a week for blood tests. The appellant stated that he has no means of transportation other than his vehicle and he lives in a community where there is no bus service. The appellant stated that he has a vehicle which he relies on for transportation to his medical appointments. The appellant stated that his vehicle unexpectedly broke down in May, that he needed to have his car towed, the timing belt replaced and the oil pump resealed, with a total bill of approximately \$500. The appellant stated that this was totally unexpected and he had no other choice than to have the repairs made in order to be able to continue to get to his medical appointments. The appellant stated that he had no other resources to pay for these repairs. The appellant stated that he has been issued an eviction notice dated June 6, 2012 because he was unable to pay his rent for June. The appellant stated that he is at risk of homelessness if he does not receive a crisis supplement for shelter.

At the hearing, the appellant's advocate stated that the ministry asked the appellant to provide a copy of an eviction notice, which he provided, and the ministry did not ask the appellant to obtain a doctor's letter to support an imminent danger to his physical health. The appellant stated that his medical condition is cardiomyopathy, that he got pneumonia last year because he had no heat in his place and now the left ventricle of his heart is only working at 20% of normal capacity. The appellant stated that until the capacity gets above 30%, his doctor has said he is in the "danger zone." The appellant stated that he will be going in to get a pacemaker and he has to attend other medical appointments to see the specialist in another community about this procedure. The appellant stated that he lives in a community that is a 20 minute drive to the location where he takes his blood tests and a 40 minute drive to the hospital cardiac care clinic. The appellant stated that there is no bus service from his community and that he only recently discovered that he may be eligible for the Handy Dart transportation service.

The appellant explained that the timing belt broke on his vehicle in May 2012 and he got a ride home and left his car at the side of the road. He arranged to have his vehicle towed to a mechanic who is an acquaintance that works out of his home and agreed to repair the vehicle and pay for the towing. The appellant stated that the car repair bill was about \$100 for parts and \$400 for labour, and he cannot remember how much it was to have the vehicle towed. The appellant stated that the mechanic did not provide him with any invoices, that he doubts that he would be able to get anything from him in writing. The appellant stated that he rents a pad for his mobile home at a cost of \$491.00 which is paid on the first of each month and that the ministry pays his hydro bills directly. The appellant stated that he panicked because he knew he had to get to his medical appointments, that he did not know of any other way to get there, and the mechanic would not give him his vehicle unless the bill for the repair was paid. The appellant stated that he paid the car repair bill with his

assistance at the end of May 2012 and then his rent was due June 1st. The appellant stated that he still has not paid the rent for June 2012 and the landlord has asked him about it several times but is holding off until the appeal is decided. The appellant stated that he will probably be evicted if he does not pay the rent, that his mobile home is very old, dated around 1970, and likely cannot be moved and that he will lose everything. The appellant stated that he does not have any credit cards or any relatives from whom to borrow money to pay the rent. The appellant stated that he has only received one other crisis supplement for hydro, of about \$300, in the last year.

The ministry's evidence is that the appellant is a single recipient of income assistance with Persons With Persistent Multiple Barriers to employment (PPMB) category. The appellant currently receives \$375.00 in shelter allowance, \$282.92 in support allowance and \$35 in diet allowance, for a total of \$692.92 per month. On June 1, 2012, the appellant submitted a request for a crisis supplement for shelter as he indicated he spent his shelter allowance on other bills. On June 6, 2012 the appellant submitted an eviction notice for June and the appellant stated that he used his shelter funds to pay other bills. At the hearing, the ministry stated that the appellant would likely be eligible for funds from the ministry for medical transportation as the appellant is required to attend a significant number of appointments and has no resources to pay for this extraordinary number of trips. The ministry stated that there is nothing in the legislation that prohibits a request for a crisis supplement for car repairs. The ministry clarified that the appellant would have been asked to provide an eviction notice because his request was for a supplement to pay his rent and this is a minimum requirement.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover shelter costs, as the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59(1) of the EAR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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*.

The appellant's position is that it was unexpected that his vehicle would break down and that he needs his vehicle for transportation to his medical appointments several times per week. The appellant argues that he panicked and believed he had no choice but to pay for the car repairs in order to have his vehicle returned to him. The appellant's advocate argues that whereas the legislation specifically provides for a crisis supplement for shelter, by setting out limits in Section 59(4), the ministry does not provide crisis supplements for car repairs. The advocate argues that while the appellant did not specify in his original request for a supplement that his shelter allowance was used to pay for essential car repairs, the ministry was aware of this at reconsideration and that the appellant's request should have been considered, in essence, as a request for the cost of car repairs. The advocate argues that the appellant's physician confirms in the letter signed August 11, 2012 that failure to provide a crisis supplement to prevent eviction and resulting homelessness would cause imminent danger to the appellant.

The ministry argues that the provisions of Section 59 of the EAR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically on this appeal that the supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed and failure to provide the item will result in imminent danger to the appellant's physical health. The ministry argues that shelter costs cannot be considered as an unexpected expense as rent is expected to be paid every month. The ministry points out that the appellant receives a monthly shelter allowance and that he was expected to pay his rent with the monthly shelter funds. The ministry acknowledges that the appellant had an expense of \$500 for towing and repairing his car and that he used his shelter allowance to pay for this bill since he needs his car for transportation to medical appointments and that he, therefore, has no resources available to him at the time to pay his rent. The ministry argues that there is nothing in legislation which prohibits a crisis supplement for car repairs and that there have been successful requests in the past. The ministry argues that the appellant has not provided sufficient information, such as supporting documentation from a medical practitioner, to establish that failure to meet the shelter expense will result in imminent danger to the appellant's physical health.

The panel finds that the appellant requested a supplement for the amount of his rent for June 2012, that this amount has not yet been paid, that the appellant has received an eviction notice and that his landlord has

agreed to wait until the appeal is decided before taking further action. The panel finds that the appellant was aware that his rent is due the first of each month and that the appellant receives a monthly shelter allowance from the ministry to pay his rent. The panel finds that the appellant's vehicle broke down in May 2012, that the appellant panicked because he believed that he required his vehicle to get to his several medical appointments each week and that he decided to use his monthly shelter allowance to pay for his car repairs and this left him with no resources to pay for his rent. The panel finds that Section 59 does not limit a request for a crisis supplement to a type of expense, as long as the criteria in the section are met, and that it does not preclude a request for the cost of car repairs. Although the advocate argues that the ministry should have treated the appellant's request as being, in essence, for the cost of the car repairs, the panel finds that the cost of the car repairs has been paid; if the appellant had, instead, requested a supplement for this cost, the ministry would be in a better position to scrutinize the specific amounts paid for towing, for parts and for labour and to determine whether all the criteria in Section 59 were met, including whether there are other resources available to the appellant to meet the expense or the need for transportation. The panel finds that the ministry's conclusion that shelter costs are not an "unexpected expense", under Section 59(1)(a) of the EAR, was reasonable.

The panel finds that the appellant's physician confirmed, in the letter signed August 11, 2012, that failure to provide a crisis supplement to prevent eviction and resulting homelessness would cause imminent danger to the appellant. As well, the appellant stated that he will probably be evicted if he does not pay the rent, that his mobile home is very old, dated around 1970, and likely cannot be moved and that he will lose everything if he has to leave. The appellant stated that his medical condition is cardiomyopathy and the left ventricle of his heart is only working at 20% of normal capacity. The appellant stated that until he gets above 30%, his doctor has said he is in the "danger zone" and that he needs to be closely monitored. The appellant stated that he will be going in to get a pacemaker and he has to attend other medical appointments to see the specialist in another community about this procedure. Therefore, the panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to meet the shelter cost will result in imminent danger to the appellant's physical health, pursuant to Section 59(1)(b)(i) of the EAR, was not reasonable.

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for shelter costs because all of the requirements of Section 59 of the EAR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.