

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development(Ministry) reconsideration decision dated October 19, 2012 which found that the appellant was not eligible for a crisis supplement requested under section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The request was for roof repairs to the appellant's residence. The ministry found that her request did not meet two of the three criteria as set out in Section 57 (1) of the EAPWDR , namely that

1. the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed
2. the minister considers that the 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, or
 - (ii) removal of a child under the Child, Family and Community Service Act.

The ministry did accept that one criterion was met through information provided to establish the appellant was unable to meet the expense or obtain the item because there are no resources available to the family unit.

In addition, the ministry's decision states that the appellant does not meet the criteria set out in Section 57(5) and (6) of the EAPWDR as the appellant's estimates for roof repairs exceeded the cumulative amount of crisis supplements that may be provided in a year.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPDA), section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57

PART E – Summary of Facts

The evidence at the time of the ministry's reconsideration decision was :

- The appellant is in receipt of disability assistance as a single person. Her file opened in November 1990.
- A quote for roof repairs to the appellant's mobile home in the amount of \$1105 that the ministry paid for in July 2008. At the time, the repairs involved the application of a snow coat to the entire roof area and the appellant advised the ministry that a snow coat needs to be "redone every two years or so".
- July 5, 2008: a quote in the amount of \$1785.00 for torch-on repairs to the appellant's mobile home.
- August 12, 2012: the appellant requested a crisis supplement for roof repairs stating her roof is leaking, producing black mould and causing extreme health issues due to her medical condition of COPD. The appellant requested torch-on roof repair which is expected to last up to 10 years. At the time the ministry advised her to supply price quotes. The appellant supplied 6 quotes for torch-on repair ranging from \$4032.00 to \$7100.00 and stated to the ministry that the repairs the ministry assisted her with in July 2008 were only temporary involving the application of a snow coat which lasted for 2 years.
- August 20, 2012: the appellant is advised that she is not eligible for a crisis supplement for roof repairs.
- September 16, 2012: the date of the appellant's original Request for Reconsideration which due to an administrative error on the part of the ministry was delayed in receipt until October 5, 2012. Documents attached to the Request for Reconsideration included the following:

-Notes (undated) from the appellant that indicate she did not know the snow roof work done on her home was temporary until after it was done and, at the time, she had provided a quote for torch-on work. The appellant notes that the current mould in her home makes her COPD and troubled-breathing condition worse. She also reports that she suffers from (Taco Sabu) and is supposed to avoid stress, but is suffering extra unnecessary stress due to the ministry's denial of her request. She reports also that she is unable to earn money because of her permanent disability, cannot afford to move as rents are too high and cannot sell her mobile home with mould and a leaky roof. The appellant also says that when she bought her mobile home she was told by the ministry it would help with roof repairs and based on that information felt she could afford her own home. She also indicates that had the ministry helped with paying for the torch-on in the first place the roof would be fixed. She also indicates she does not wish to sell her residence which is cheap for two bedrooms and offers her privacy.

-Note dated September 17, 2012 from the appellant regarding the administrative error of the ministry regarding the handling of her Request for Reconsideration due September 17.

-September 15, 2012 a letter from the appellant's sister which outlines that the appellant suffers from COPD, Hepatitis C and Takotsubo a stress-induced cardiomyopathy that can cause acute heart failure. Also noted are the appellant's learning disabilities, panic attacks and severe anxiety. The letter stresses that the appellant requires a stress and worry free healthy home without all the mouldy, damp smelly wet ceilings, walls and floors and argues that she should be eligible as this places her in imminent danger to her physical health. The letter claims this is supported by the appellant's physician and expresses worry about the appellant's health due to constant stress over her roof and the conditions that could harm her health.

The letter also reports that when the appellant inherited the property from her grandmother she was assured by the ministry that they would help her with unexpected expenses. It notes that if the roof is not fixed the appellant would not be able to earn any income by renting out the extra bedroom to earn added income to deal with unexpected repairs. The letter observes that the ministry in 2008 accepted the lowest estimate to fix the leaks in the appellant's roof which was inadequate and that the appellant actually required a new roof, not a temporary roof coating. The appellant has difficulty understanding her roofing needs and does not possess the knowledge to make an informed decision on estimates. The letter notes the appellant should have enlisted the help of an advocate who understands construction.

The letter stresses that the appellant is entering her senior years and requires a long term roofing solution to relieve her of worry in future years. It points out that the appellant should not have to sell her home and deserves to be able to live on her own. It says she should not have to move just so she can pay higher rent which the ministry will not fully subsidize and which would be much higher than the pad rent she currently pays and which would include the loss of the earning potential of her two bedroom home.

-September 15, 2012 a letter from the appellant's brother-in-law that details what repairs to the appellant's roof are necessary to bring the home to proper livable standards.

-September 12, 2012 a prescription note from the appellant's physician that reports the appellant's conditions of COPD and coronary heart disease and states "she will benefit from living in a free + mould free environment.

In a Notice of Appeal (NOA) dated October 28, 2012 the appellant states "It was never fixed. I am out of options.....see all documents on my health problems due to mold (C.O.P.D.) stress due to Taco Sabu (Broken Heart Syndrome)."

At the hearing, the appellant was represented by her sister as an advocate. The advocate pointed out that in 2008 the initial crisis request from the appellant was to fix a leak involving the addition to her trailer home. At the time, the appellant also discovered a leak in the roof of the trailer home and made a second request. The advocate contends the ministry never fixed the roof of the addition to the trailer home, but fixed the roof of the trailer and, in this case, went with the lowest bid which involved a snow coat process. The advocate contends the appellant's initial request was denied and she did not understand she could appeal and accepted the option to fix the roof of the trailer home. The advocate believes that the appellant noted that torch-on lasts longer than a snow coat. She further stated that there was confusion between the two roofs and that the snow coat application was

inadequate as it only lasts for two years and then needs to be redone. The advocate believes the ministry had a responsibility and should have provided a proper long-term solution that would have lasted ten years and would have allowed sufficient time for the appellant to prepare and save for the cost of any replacement work. The current state of the appellant's home is aggravating even further her poor state of health.

At the hearing, the ministry stood by the record. The ministry observes that when they receive requests such as that received from the appellant in 2008 they do not do inspections; rather they work from the information they are given. In the appellant's circumstances the crisis request was clarified with the appellant and accepted and because the matter was unforeseen the ministry granted a one-time allowance. Further, there was nothing to indicate the work was not acceptable to the appellant. In addition, it is ministry practice to take the lowest bid and the ministry cannot take on long term responsibility for the wear and tear to a home. It notes the appellant was aware in 2008 that the work on her roof would last two years and that planning accordingly for such wear and tear is a normal responsibility.

PART F – Reasons for Panel Decision

The issue to be determined at appeal is whether the ministry's reconsideration decision was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances. The ministry's reconsideration decision states that the appellant's request for a crisis supplement for roof repairs does not meet all the criteria as set out in Section 57(1) of the EAPWDR. Specifically that the requested item is not an unexpected expense, nor is it an item unexpectedly needed, nor is failure to provide the requested item expected to result in imminent danger to the appellant's health. The ministry also determined that the cost of the requested roof repairs exceeds the total amount of crisis supplements allowed in a year pursuant to Section 57 (5) and (6) of the EAPWDR.

Section 5 of the EAPDA states as follows:

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 states as follows:

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.

(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 disability 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.

EAPWDR Schedule A states the following:

Disability Assistance Rates

Maximum amount of disability assistance before deduction of net income

1 Subject to sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

(a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of

the applicant or recipient, plus

(b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

Monthly support allowance

2 (0.1) For the purposes of this section, "**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(1) A monthly support allowance for the purpose of section 1 (a) is the sum of

(a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus

(b) the amount calculated in accordance with subsections (2) to (5) for each dependent child in the family unit.

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is a person with disabilities	\$531.42

Monthly shelter allowance

4 (1) For the purposes of this section:

"**family unit**" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation;

"**warrant**" has the meaning of warrant in section 14.2 [*consequences in relation to outstanding arrest warrants*] of the Act.

(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
------	------------------------------	-------------------------------------

1

1 person

\$375

The appellant's position is that the roof repairs to the addition to the trailer home were never addressed and were unforeseen. Further, the repairs done to the trailer roof in 2008 were inadequate and a longer term solution should have been approved by the ministry. The appellant argues the expenses are, therefore, unexpected and she cannot afford and cannot borrow the monies to pay for the needed roof repairs which are causing harm to her health.

The ministry's position is that regular maintenance and repairs to a home one lives is a normal part of wear and tear and not an unexpected cost. It also argues that there is no information provided to establish that failure to repair her roof will result in imminent danger to the appellant's physical health. Finally, the ministry contends that the amount of the crisis supplement requested exceeds the total amount of crisis supplements that may be provided under the EAPWDR.

There are three criteria within the EAPWDR, section 57(1) of 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. The panel finds the appellant accepted the ministry's decision and crisis allowance to fix the roof of her trailer in 2008 and did not contest this at the time. The appellant acknowledged at the time that the solution to fix her roof leak was limited to two years. The panel finds no evidence that the appellant's roof repairs needs came unexpectedly or occurred without notice. The panel finds that the ministry reasonably determined that the roof repairs were not an unexpected expense as it is reasonable to expect and to anticipate wear and tear to a home. The panel finds, therefore, that the ministry was reasonable in its finding that the appellant's need for roof repairs was not an unexpected expense nor unexpectedly needed.

The second criterion is that there are no resources available to the appellant to meet the expense of her roof repairs. The ministry found that the appellant met this criterion. 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 supplement would result in imminent danger to her physical health. A note from the appellant's physician only provides information on her medical condition and states "she will benefit from living in a stress free and mould free environment." The panel finds this note as insufficient in establishing that the appellant's physical health was in imminent danger. The panel finds, therefore, that the ministry reasonably determined it has not been demonstrated that failure to provide the appellant a crisis supplement for roof repairs will result in imminent danger to her health.

The ministry also found that the appellant's crisis supplement request did not meet the legislated criteria under the EAPWDR, sections 57 (5) and (6). The appellant's disability support and shelter assistance amount to a total of \$906.42 monthly. The EAPWDR, sections 57 (5) and (6) allow only a maximum crisis supplement in a year that cannot exceed twice the amount of disability assistance for

which a recipient is eligible. In the appellant's case this amounts to \$1812.84. All of the estimates and related costs to fix the appellant's roof ranged from \$4032.00 to \$7100.00 and exceeded this amount. The panel finds, therefore, that the ministry reasonably determined the amount of the crisis supplement exceeded the total amount of crisis supplements that may be provided.

In conclusion, the panel finds that the ministry's decision to deny the appellant a crisis supplement for roof repairs for her mobile home because she did not meet all of the criteria under Section 57(1), 57(5) and 57(6) of the EAPWDR was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant. The panel, therefore, confirms the decision.