

## PART C – Decision under Appeal

The decision under appeal is the ministry's Reconsideration Decision dated September 12, 2012 which denied the appellant's request for a crisis supplement to purchase a mattress topper. The ministry held that the statutory requirements of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met by the appellant as the ministry found that there was insufficient evidence to establish:

1. that the mattress topper was an unexpected expense or an item unexpectedly needed by the appellant;
2. that there are no alternate resources available to the appellant to purchase the mattress topper on her own; and
3. that failure to obtain the mattress topper would result in imminent danger to the appellant's physical health.

## 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 the time of the Reconsideration Decision consisted of:

1. The appellant's Request for Reconsideration dated August 31, 2012;
2. A two page addendum prepared by the appellant and attached to the Request for Reconsideration;
3. A handwritten letter prepared by the appellant dated August 13, 2012 attaching a medical prescription dated June 4, 2012; and
4. Two pages of handwritten notes noting various models of mattress toppers and their corresponding prices.

The ministry relied on the Reconsideration Decision and did not introduce any new evidence.

In the Request for Reconsideration, the appellant states that she has concern for her safety and that of others while operating her electric scooter while sleep deprived as her pain keeps her awake at night and interferes with her sleep. The appellant states that she has had two scooter accidents since her crisis supplement request and in the last accident another person was injured. The appellant states that in one of the scooter accidents, she suffered injuries and that she has advised the ministry that her safety and the safety of others is at risk when she operates her scooter without having had enough sleep. The appellant states that the mattress topper is not a health care item or a service but rather it is to facilitate sleep. The appellant says that she is in a crisis because of having to operate her scooter for basic mobility and she does not want to be hurt or hurt anyone else.

In the appellant's Notice of Appeal which included a one page hand-written addendum outlining her reasons for the appeal and which the panel accepts as argument, she states that her request for a crisis supplement is not being requested just for her own safety but for others. The appellant notes that she recently had another accident in which she suffered injuries to her left hand making it hard to do anything. The appellant argues that worn out beds purchased by the ministry are not suitable for sleep in that she feels as though she is being stabbed by the springs. The appellant argues that not getting enough sleep plays havoc with her in that she is not alert and forgets to do things such as turn off burners.

The appellant is a single person with no dependents and she receives disability assistance. On July 4, 2012 the appellant made a medical supplies request to the ministry for a mattress topper. That request was denied by the ministry and no reconsideration request was made by the appellant. On August 13, 2012, the appellant submitted a written request for a crisis supplement for a mattress topper to assist her with better sleep due to chronic pain related to a history of osteoarthritis in her hips. This request was supported by a doctor's note dated June 4, 2012. On August 17, 2012, this request was refused by the ministry and on August 18, 2012, a ministry employee advised the appellant of this by telephone.

## PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's Reconsideration Decision dated September 12, 2012 which denied the appellant's request for a crisis supplement to purchase a mattress topper. The ministry held that the statutory requirements of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met by the appellant as the ministry found that there was insufficient evidence to establish:

1. that the mattress topper was an unexpected expense or an item unexpectedly needed by the appellant;
2. that there are no alternate resources available to the appellant to purchase the mattress topper on her own; and
3. that failure to obtain the mattress topper would result in imminent danger to the appellant's physical health.

Section 5 of the EAPWDA provides as follows:

### **Disability assistance and supplements**

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(1) of the EAPWDR provides as follows:

### **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.

(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.

[am. B.C. Reg. 13/2003.]

In the Appellant's Notice of Appeal, she argues that her request for a crisis supplement is not being requested just for her own safety but for others. The appellant states that she recently had an accident operating her scooter in which she suffered injuries. The appellant argues that worn out beds purchased by the ministry are not suitable for sleep and that not getting enough sleep plays havoc with her in that she is not alert and forgets to do things.

In the Reconsideration Decision, the ministry states that the appellant submitted a request for a health supplement on June 19, 2012 to obtain the mattress topper and that request was denied by the ministry. The ministry submits that when the appellant requested the crisis supplement on August 13, 2012, the mattress topper was not an unexpected item of need but rather it was something she had been pursuing over a period of two months. The ministry further argues that the appellant has not established that she has no resources available to purchase the mattress topper on her own and that she was issued her full amount of monthly assistance in June, July and August and the appellant has not indicated what attempts she has made to obtain the mattress topper with her support allowance or why she was unable to do so. Finally, the ministry argues that no information has been provided to support the contention that failure to obtain a mattress topper will

result in imminent danger to the appellant's health. The ministry states that the medical prescription provided by the appellant supports purchasing the mattress topper to facilitate better sleep and it acknowledges that the appellant considers a mattress topper useful in managing her chronic medical condition. However, the ministry submits that the risks of operating her scooter are not imminent events and that the appellant has not provided evidence to support that the risks are due to not having a mattress topper.

Section 57(1) of the EAPWDR sets out the three criteria that the appellant must meet before she can be provided a crisis supplement. The appellant must require the supplement to meet an unexpected expense or to obtain an item unexpectedly needed, there must be no resources available to the appellant to meet the expense or obtain the item and failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant.

In the present case, the Panel finds that a medical prescription dated June 4, 2012 was issued to the appellant which notes that due to her chronic pain she requires a mattress topper to facilitate better sleep. The ministry argues that the mattress topper is not an unexpected expense for the appellant as she had been pursuing one over a period of two months prior to applying for a crisis supplement. The Panel finds that subsequent to receiving the medical prescription, the appellant applied for a health supplement which was denied. The Panel finds further that the appellant then applied for a crisis supplement which is the subject of this appeal. Given that the appellant's need for a mattress topper appears to have been predicated by the medical prescription, the Panel finds that the Ministry's determination that that the appellant's need for a mattress topper was neither an unexpected expense nor an item unexpectedly needed was not reasonable.

The appellant does not comment in either the Notice of Appeal or the Request for Reconsideration as to whether resources are available to her to purchase the mattress topper on her own. Rather, the appellant argues in the Request for Reconsideration that she requires the mattress topper to facilitate sleep and that she is in crisis because of having to operate a scooter for basic mobility. While the ministry suggests that the appellant has continued to receive her monthly assistance payments, the Panel finds that it is not reasonable to hypothesize as to whether those payments will be sufficient to allow the appellant to purchase the mattress topper on her own. However, the legislative onus is on the appellant to demonstrate that there are no alternate resources available to her to purchase the mattress topper on her own and given the Panel's finding that the appellant has not addressed that requirement in either the Notice of Appeal or the Request for Reconsideration, the Panel finds that the ministry reasonably determined that the appellant has not established that she does not have resources available to purchase the mattress topper on her own.

Finally, the Panel finds that there is insufficient evidence to support a finding that failure to obtain the bed will result in imminent danger to the physical health of the appellant. The information provided by the appellant in the Request for Reconsideration and the Notice of Appeal indicates that she requires the mattress topper for better sleep as part of her therapy which arises from a medical condition. The Panel finds that the ministry reasonably determined that failure to obtain a mattress topper will not result in imminent danger to the appellant's physical health.

As the appellant has not satisfied each of the statutory requirements of s.57(1) the EAPWDR, the Panel finds that the ministry's Reconsideration Decision was reasonably supported by the evidence and confirms the decision.