

**PART C – Decision under Appeal**

The decision under appeal is the ministry's Reconsideration Decision dated November 21, 2012, which held that the appellant does not qualify for a crisis supplement because he does not meet the requirements set out in section 59 of the Employment and Assistance Regulation.

**PART D – Relevant Legislation**

Employment and Assistance Act (the "Income Assistance Act"), section 4  
Employment and Assistance Regulation (the "Income Assistance Regulation"), section 59  
Employment and Assistance for Persons With Disabilities Act (the "Disability Assistance Act"), section 5  
Employment and Assistance for Persons With Disabilities Regulation (the "Disability Assistance Regulation"),  
section 57

## PART E – Summary of Facts

The evidence before the minister at the time of the Reconsideration Decision and before the panel consisted of the information in the decision being reconsidered and the statement of the appellant that he was requesting reconsideration because he was hungry. The Reconsideration Officer also appears to have had access to additional information about the appellant not made available to the panel.

The panel finds the facts to be as follows.

1. The appellant receives either income assistance, disability assistance, or hardship assistance.
2. On November 9, 2012, the appellant asked the minister for assistance to purchase food.
3. Other than to say he needed to survive and that he was hungry, the appellant refused to explain why his need for food was unexpected.

## PART F – Reasons for Panel Decision

*Issue*

The issue is whether the evidence reasonably supports the decision of the minister that the appellant does not qualify for a crisis supplement because he does not meet the requirements set out in section 59 of the Income Assistance Regulation.

*Relevant Law*

Section 4 of the Income Assistance Act provides that “[s]ubject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.”

Section 5 of the Disability Assistance Act provides that “[s]ubject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.”

Section 59(1) of the Income Assistance Regulation provides 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*.

Section 57(1) of the Disability Assistance Regulation 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*.

The remaining subsections of section 59 are identical to the remaining subsections of section 57. The minister did not refer to them. They have no bearing on the appeal other than to note that the entitlement of a person qualifying for a crisis supplement under section 59 is the same as for a person qualifying under section 57.

*Analysis*

At the hearing of the appeal the minister made no submission, choosing to rely on the Reconsideration Decision.

The appellant made no submission other than statements in the Notice of Appeal to the effect that the Reconsideration Decision is unfair because the minister did not fully consider the appellant's circumstances. In the words of the appellant, "The worker used a small fragment of a greater statement to defend an unfair desition (sic)."

Dealing first with the appellant's assertion in the Notice of Appeal, the only "statement" of the appellant in evidence before the Reconsideration Officer was the statement, "My reason [for requesting reconsideration] is that I am hungry." The panel has been unable to determine from the Appeal Record what the "greater statement" and "small fragment" are. If the Request for Reconsideration and the Reconsideration Decision, which are the only documents before the panel besides the Notice of Appeal, have omitted evidence of relevant facts, neither party has brought the omission to the attention of the panel.

The legislation refers to a "family unit." In this case, the appellant is the family unit.

As a person receiving assistance, to receive additional assistance to purchase food the appellant would have to qualify for a crisis supplement.

To qualify for a crisis supplement, the appellant must satisfy four criteria.

First, he must be eligible for income, disability or hardship assistance. The decision that the minister reconsidered indicates that the appellant receives "income assistance or hardship assistance." The Summary of Facts in the Reconsideration Decision indicates that the appellant receives "disability assistance." Income assistance is available under the Income Assistance Act. Disability assistance is available under the Disability Assistance Act. Hardship assistance is available under both acts. The panel received no evidence allowing it to determine whether the appellant receives income assistance, disability assistance or hardship assistance. If the appellant receives income assistance or hardship assistance under the Income Assistance Act, the Reconsideration Officer erred in describing it as disability assistance. If the appellant receives disability assistance, the Reconsideration Officer erred in applying the Income Assistance Act and the Income Assistance Regulation. Even if the Reconsideration Officer applied the wrong legislation, however, comparison of section 4 of the Income Assistance Act with section 5 of the Disability Assistance Act and section 59(1) of the Income Assistance Regulation with section 57(1) of the Disability Assistance Regulation reveals that, with the exception of references to "income assistance" on one hand and "disability assistance" on the other, the wording of section 4 is identical to that of section 5, and the wording of section 59(1) is identical to that of section 57(1). For the purposes of this appeal, because of the identical wording of the sections, since the appellant is eligible for income, disability or hardship assistance, the minister reasonably concluded that the appellant satisfies the "eligibility for assistance" requirement, no matter which legislation the minister applied.

Secondly, the appellant must require the crisis supplement to meet an unexpected expense or obtain an item unexpectedly needed. The appellant receives assistance intended to meet the reasonably anticipated needs of a person for shelter and support, including food. The appellant has offered no evidence to the minister or the panel to show that there was anything unexpected related to the cost of satisfying his hunger or his need to obtain food. The minister reasonably concluded that the appellant failed to satisfy the second criterion.

Thirdly, the appellant must be unable to meet the expense or obtain the item because he has no resources to do so. The minister assumes in the Reconsideration Decision that the appellant has community resources available for obtaining food and that the appellant failed to make use of them. Although the appellant's community may

well have such resources, the Appeal Record contains no evidence of such a fact. If the community has the resources, since there is no evidence that the appellant availed himself of them, the conclusion of the minister that the appellant did not satisfy this criterion would be reasonable. On the other hand, if the community does not, in fact, have the resources, the minister's conclusion would be unreasonable.

Finally, the minister must consider that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant. The minister reasonably formulated the opinion that failure to obtain food would pose imminent danger to the appellant's health.

#### *Conclusion*

Based on the foregoing analysis, the panel finds that the Reconsideration Decision that the appellant does not qualify for a crisis supplement was reasonably supported by the evidence or, more accurately, the lack of it. The panel confirms the decision.