



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated December 21, 2012, which denied the appellant's request for a crisis supplement for a mattress. The ministry found that the request for a mattress could not be considered an unexpected need and that it had not been established other resources were unavailable to purchase the mattress under Section 57(1) Of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation.

PART D – Relevant Legislation

EAPWD Regulation Section 57(1)

PART E – Summary of Facts

The evidence before the ministry at reconsideration included:

- The appellant's request for reconsideration dated December 07, 2012
- A doctor's note dated November 28, 2012 stating that the appellant requires a new mattress for health reasons; arthritis, sleep apnea, epilepsy and bed bugs.
- A sales order quote dated November 14, 2012 from a bedding store for a mattress, one quote for \$771.67 and another quote for \$670.88.
- A note dated June 25, 2012 from an individual stating the appellant's bed bug issue had been dealt with.

On June 21, 2012 the appellant advised the ministry that he had bedbugs as he had marks up and down his arms, head and neck. On June 22, 2012 the appellant asked for assistance from the ministry for a new bed. The ministry told the appellant he would have to deal with the bed bug issue before the ministry would provide a new mattress. On June 25, 2012 a note was submitted from the appellant's landlord advising the bed bug issue had been dealt with. In July 2012 the ministry approved the appellant for a crisis supplement for a new mattress and provided \$210.80 to an organization to purchase a bed for the appellant. On November 14, 2012 the appellant requested a crisis supplement for another mattress as the first mattress from the organization had bedbugs in it.

In the notice of appeal the appellant stated that the reason he waited so long to ask for new mattress was that he had to make sure there were no bed bugs and he needed to treat his room with heat and chemicals to rid of the bed bugs. The appellant didn't think that the ministry would help until he did this. The appellant also wrote that he has severe arthritis in his back and spine as well as sleep apnea, epilepsy and depression and therefore he needs a new mattress. He stated that he sleeps on the floor which is bad for his health.

At the hearing the appellant stated that he believes that he should have a new bed because the mattress delivered in June 2012 had bed bugs in it. A few weeks after the mattress was delivered the appellant discovered the mattress had bed bugs. He noticed bite marks and red blotches on his skin. At the request of and with the help of his landlady and the landlady's son, they got rid of the mattress and fumigated the apartment the appellant was living in as well as his clothes. He stated that the reason he waited from July 2012 to November 2012 to inform the ministry that he disposed of his mattress, was he thought the landlord would buy him a new mattress, as the landlord's son gave him that impression. He also wanted to be sure that the bed bugs did not return and he was afraid the ministry would not support him for a new mattress if the bed bugs were still present in the apartment. The appellant spoke about his health issues and how his arthritis, sleep apnea, epilepsy and depression have escalated since he disposed of his mattress and has been sleeping on the floor. He stated that if he had an epileptic seizure while sleeping on the floor, the erratic movements with the seizure could cause him to hurt himself. He said he feels that he is more depressed in the last six months because he does not have a bed to sleep in. The appellant confirmed that he did call the organization who delivered the mattress but they did not return his two phone messages. He also stated that he called another organization to inquire about obtaining a mattress but the appellant had to go to their place of business and the appellant stated that he never followed up on that request. The appellant confirmed that he had no contact with the ministry regarding requesting a new mattress from July 2012 to November 2012 and he stated that he should have followed through with advising the ministry of the problem with the first mattress earlier in 2012.

The panel admitted the evidence of the appellant pursuant to Section 22(4) of the Employment and Assistance Act, as providing further detail in support of information that was before the ministry on reconsideration.

At the hearing the ministry restated the position as set out in the reconsideration decision reaffirming that the appellant did not meet the criteria for a crisis supplement as the request for a second mattress in November 2012 was not an unexpected need. The ministry confirmed that the appellant was provided with crisis supplement for a bed in July 2012 and the appellant disposed of it. Further, the need for a new mattress when the appellant asked for one in November was not an unexpected need. The ministry stated that it was not established that there were no other resources available to the appellant to purchase a mattress on his own as the appellant had not confirmed with the original organization they would not replace the first mattress.

The panel makes the following findings of fact:

- The appellant has a Person with Disabilities designation.
- The appellant notified the ministry on June 21, 2012 that he had bedbugs where he lived.
- The appellant asked for assistance for a new bed from the ministry on June 22, 2012.
- A note was submitted from the appellant's landlord on June 25, 2012 that stated the bed bug issue had been dealt with in the appellant's home.
- The ministry approved a crisis supplement for a new mattress for \$210.80 in July 2012.
- The appellant requested a crisis supplement for a second mattress in November 2012, as the one he obtained in June 2010 had bed bugs in it and the appellant disposed of the mattress at the landlord's request.

PART F – Reasons for Panel Decision

The issue on appeal is whether or not the ministry reasonably concluded that the appellant is not eligible under the prescribed legislation to receive a crisis supplement for a mattress for the appellant's home because the appellant's situation did not meet the eligibility criteria for a crisis supplement pursuant to Section 57(1) of the EAPWD Regulation

Section 57(1) of the EAPWD Regulation sets out that 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 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 Services Act.

The ministry's position is that the appellant's request for a crisis supplement does not meet the eligibility criteria. The ministry stated that the mattress is not an unexpected need as the appellant was provided with a bed in July 2012 and the appellant disposed of it. The need for a mattress when requested by the appellant in November was not unexpected as the bed had been disposed of four months earlier in July, 2012. Further, the ministry argued that it had not been shown that there were no other resources available to the appellant to pay for the mattress in that the original supplier of the mattress had not confirmed they would not replace the mattress.

The appellant argues that the mattress that was delivered in July 2012 had bedbugs in it and the appellant had to dispose of it. The appellant stated that he waited four months to report to the ministry that he disposed of the bed because he did not think the ministry would help again so soon and the appellant wanted to be sure that the bed bugs were gone from the apartment. The appellant could not have expected the mattress he received to have bedbugs in it. He had tried to call the mattress supplier two times and had left messages to call him about the issue but they never called back.

The evidence in the file demonstrates that the appellant's need for a new mattress was not unexpected as he disposed of this mattress in July 2012 and did not request a new mattress until November, 2012 some four months later. This was not an unexpected expense. The panel finds that the ministry decision, that this was not an unexpected expense was reasonable in the circumstances.

In relation to the issue of other resources available to the appellant, the evidence is clear that the appellant never spoke to the mattress supplier he simply left two phone messages which were never returned. He never attended to the supplier to follow up with the matter, he never advised the ministry of the situation so they could follow up with the supplier. He had no confirmation they would not replace the mattress. The panel finds that it is reasonable for any consumer to follow up with a supplier that provides defective products to ask for a replacement. The ministry decision in this regard was reasonable; the appellant had not established other resources were not available.

The panel finds that the request for a crisis supplement for a new mattress does not meet the legislated criterion in the EAPWD Regulation Section 57(1) (a) which states that the minister may provide a crisis supplement for family unit that is eligible for disability assistance or hardship



assistance if the family unit or a person in the family unit requires the supplement to meet an 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. The panel finds that the ministry's determination that the appellant is not eligible for the crisis supplement was reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel confirms the ministry's decision.