

PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development (Ministry) dated May 21, 2013, in which the Ministry denied his request for a crisis supplement for vehicle repair on the basis that the appellant did not meet all the required criteria set out in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The Ministry determined that the appellant had not provided information to establish that he required the crisis supplement to meet an unexpected expense, that he had not provided information to establish that he had no resources available to him to repair his vehicle (both criteria required by subs. 57(1)(a)), and that he had not provided information to establish that failure to meet the requested expense (vehicle repair) would result in imminent danger to the appellant's physical health (as required by subs. 57(1)(b)(i)).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57(1).

PART E – Summary of Facts

The appellant has been designated a person with disabilities – he suffers from spinal stenosis and scoliosis – and receives monthly disability assistance. The appellant also receives an annual Special Transportation Subsidy of \$790. The information before the Ministry at reconsideration included the appellant's request for reconsideration, in which he stated that the Ministry was "unreasonable to deny me a crisis grant as per legislation, I do meet the definition of failing to provide will cause undue hardship," as well as a letter from the appellant's physician dated April 25, 2013. In the letter, the appellant's physician lists the appellant's current medications (11 different medications in tablet and spray forms) and states the following:

[The appellant] has severe rotoscoliosis and awaits consultation in the spinal unit in Vancouver. With the lack of mobility and multiple visits to the [regional hospital] he would certainly benefit from being able to drive a motor vehicle. He would find it difficult in our community to walk to public transportation which means the lack of a vehicle would be a definite detriment to his health.

At the hearing, the appellant and his advocate told the panel that his disability causes him to be bent at a 45-degree angle so that when he walks, his hands reach the ground. The appellant said his disability is extremely painful and told the panel he cannot walk for any distance ("walking is not an option") and cannot stand and wait for any extended period of time (as required for public transportation). The appellant told the panel that he is seeking the crisis supplement to repair the clutch of his truck and that he relies on his truck for mobility – the truck has been modified and has bars inside of it to assist him. The appellant described to the panel the efforts he makes on a regular basis to keep his truck in good working order (that he had replaced its starter and its alternator), but told the panel that the clutch repair was totally unexpected.

The appellant lives in a small community that does not have reliable public transportation or taxi service. He said that when he goes grocery shopping, he parks his truck beside the shopping carts and uses a cart as a walker. He works one day per week at a social service agency and has a specially designed walker provided for him to assist his mobility. He told the panel he has been continuing to drive his truck, but it is difficult for him as the clutch is not working properly and he knows it needs to be fixed. The Ministry asked the appellant if he could use the local Handy Dart service and he said he understood in his community it needs to be booked at least 2 days in advance and will cost him \$5 for each trip. The appellant said that he spends his Special Transportation Subsidy on insurance for his truck, as well as gas. He has tried to allocate some of this subsidy to repairs, but there is not enough to cover the cost of the clutch repair and there are no other social service agencies in his community that could contribute financially to the repair.

The appellant and his advocate told the panel that as a result of his disability and the pain it causes him and the pain medication he takes, he also suffers from psychosis and has been hospitalized for this. They told the panel that the appellant is subject to an order under the *Mental Health Act* and is required to attend several medical appointments on a regular basis – he must go to the local hospital once per month to receive his anti-psychotic medication (a shot), he must attend his psychiatrist once per month, he must see his family physician two times per month, and he must see a counselor two times per month. The appellant told the panel that he is isolated in his community – he does not have any family or friends who can assist him with his mobility by providing rides and he does not have anyone to ask for financial assistance. The appellant's advocate, who has known him for several years, said that if the appellant is unable to use his truck, he will become further isolated and will miss his medical appointments, which will result in an increase in his psychosis. The appellant and his advocate advised the panel that he has been committed under the *Mental Health Act* as he posed a threat to himself and that he worries this may happen to him again if he is unable to make his medical appointments.

The panel notes that the Ministry did not contest the appellant's oral submissions about the effects of his disability and the accompanying psychosis and that he is required to attend at several medical appointments each month. Under section 22(4)(b) of the *Employment and Assistance Act*, the panel accepts the additional

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oral submissions of the appellant made at the hearing as oral testimony in support of the information and records that were before the minister when the decision being appealed was made.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's decision to deny the appellant's request for a crisis supplement for vehicle repair on the basis that he did not meet the criteria set out in section 57(1) of the *EAPWDR* because he did not provide information to support the request is reasonable.

The criteria to be applied by the Ministry on a request for a crisis supplement are set out in section 57(1) of the *EAPWDR* as follows, emphasized by the panel:

- (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 ...

The appellant's position is that he meets the eligibility criteria to receive a crisis supplement for the repair of the clutch his vehicle. In his notice of appeal, the appellant says that he never expected the clutch on his truck to stop working, that it is completely unexpected for him. The appellant says that he does not have resources to meet the expense of repairing his clutch – that he does not have any family or friends who can provide financial assistance to him and that there are no resources in his community to help with the expense. The appellant says that he is in imminent danger to his physical health if he is not able to use his truck for mobility – that he will miss his medical appointments and will become isolated, which will increase his psychosis (particularly if he misses his medication) and increase the possibility he will harm himself.

The Ministry says that the appellant does not meet the legislative criteria under subs. 57(1) for a crisis supplement – that when the Ministry received the appellant's request for a crisis supplement it had to rely on the information provided and the Ministry cannot "read between the lines" of the appellant's request. The Ministry says that the appellant is seeking a crisis supplement for vehicle repair, which is not an unexpected expense for which the crisis supplement is intended – that the appellant "has not provided any details that would indicate the clutch failed unexpectedly, rather than being worn out over a period of time." The Ministry also says that the appellant has not established that he had no other resources available to him, as required by subs. 57(1)(a) – that the appellant did not indicate that between his disability assistance and annual Special Transportation Subsidy he would not be able to cover the cost to repair his vehicle and that he had not indicated that he could not meet his transportation needs by getting rides from friends, family or a tax service. The Ministry also said that the letter from the appellant's physician indicated that the lack of a vehicle would be "a definite detriment" to the appellant's health, but that this does not demonstrate that failure to provide the requested crisis supplement would result in imminent danger to the appellant's physical health, as required by subs. 57(1)(b)(i) – that "there is no indication that such detriment would be imminent, or could not be avoided if you were to find alternate means of transportation in order to attend his medical appointments."

In order to receive a crisis supplement under section 57 of the *EAPWDR*, an applicant must meet all three of the criteria set out in subs. 57(1) – if the applicant does not meet one of the three criteria, the crisis supplement will not be provided. Based on the appellant's additional oral submissions at the hearing explaining his circumstances in detail, the panel finds that the Ministry's determination that the appellant does not meet the criteria required for a crisis supplement under subs. 57(1) of the *EAPDR* is reasonable as the appellant has not established that the clutch of his truck was an unexpected expense.

The appellant requires the crisis supplement to repair the clutch of his truck, which the appellant described as unexpected and outside his expected ongoing maintenance of his truck. However, the appellant told the

panel that he had replaced the starter and the alternator of the truck, acknowledging that his truck requires ongoing maintenance and parts will wear out and have to be replaced. The panel finds that the Ministry's determination that the appellant has not met the first requirement of subs. 57(1)(a), that is, that the requested crisis supplement to fix the clutch of his truck is "to meet an unexpected expense" is reasonable in the appellant's circumstances and agrees that the appellant has not provided details that the clutch failed unexpectedly, rather than being worn out over a period of time.

The panel notes the appellant's submission that he receives the annual Special Transportation Subsidy because his community has limited public transportation and taxi service available to him, that he uses the subsidy to pay for the insurance and gas for his truck, and that he has no friends and family to provide him transportation to his appointments. The panel accepts the appellant's submission that there are no resources available to him – no friends or family who could contribute financially to him to help cover the cost of the clutch repair or social service agencies which would finance the repairs. The panel finds that the Ministry's determination that the appellant did not meet the other requirement of subs. 57(1)(a) (that he is unable to meet the expense because there are no resources available to him) was not reasonable in the appellant's circumstances.

The panel also finds that the Ministry's determination that the appellant did not meet the requirement of subs. 57(1)(b)(i) was unreasonable in the appellant's circumstances, based on the appellant's submission that the failure to provide the requested crisis supplement for vehicle repairs would result in imminent danger to his physical health as the panel accepts that the appellant relies on his truck for his sole source of mobility and transportation and would become isolated and would not meet his required medical appointments.

As an applicant for a crisis supplement is required to meet all three criteria set out in subs. 57(1) of the EAPWDR, the panel concludes that the Ministry's determination that the appellant does not meet the criteria set out in subs. 57(1) was reasonable based on the evidence (including the admitted oral submissions at the hearing). The panel therefore confirms the Ministry's decision.