

APPEAL #

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated August 8, 2013 which held that the appellant was not eligible for a crisis supplement for food because she did not meet the three criteria required under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation. The Ministry found that the appellant did not establish why purchasing food was an unexpected expense, that she did not have the resources available to purchase food, and that failure to provide the supplement would result in an imminent danger to her physical health.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation EAPWDR
Section 57, Crisis supplement

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included:

- The appellant is a single recipient with Persons with Disabilities designation
- The appellant is on a special diet.
- The appellant re-located to from another community at the beginning of May.
- The appellant receives a monthly benefit to provide shelter (\$375.00), support (\$531.32), and supplements for nutritional diet (\$165.00) and vitamins (\$40.00), minus a \$20.00 repayment, resulting in a total benefit of \$1091.42.
- The appellant's rent is \$500.00
- On June 11, 2013, the appellant phoned the ministry and requested a crisis supplement for food, advising the ministry that she had extra bills to pay, there are 5 weeks between cheque-issue dates, and that she only had sufficient food to last until June 15, 2013. The appellant stated she would try to get cat food from the food bank.
- On June 12, 2013, the ministry denied the appellant's request.

In the Notice of Appeal, dated August 20, 2013, the appellant said she had not discussed certain matters with the Employment Assistance Worker. She did not state she had extra bills in the month of June; she did not talk about her cats except to say something like that she had two cans of cat food in her cupboard.

At the hearing, the appellant reviewed the evidence and argument provided with the Notice of Appeal. The appellant said that she had decided to move for health reasons; the impact of her move on her cost of housing was significant because the shelter allowance of \$375.00 is too low. She provided further evidence that must use her car to get food and it is more difficult as a person with a disability going to food banks (finding parking some distance away, walking) versus going to a local grocer with parking right by the door. She said there is a lack of high protein foods: milk, eggs, butter, and cheese required for her diet, at the food banks. The appellant also noted that it was difficult to have enough money when the cheque-issue dates were five weeks apart as was the case when she made this request. The appellant also stated that ministry employees have not always been polite or considerate.

The ministry acknowledged the appellant's concerns about service delivery and stated that it was not the ministry's intention to treat clients with any degree of disrespect. The ministry also stated that the cheques were issued on a scheduled cycle that is published. The appellant added that it is posted on the website.

The panel determined the above additional oral evidence was admissible under section 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably determined that the appellant was not eligible for a crisis supplement for food pursuant to Section 57 of the EAPWDR because she did not meet the three part criteria set out in the regulation. Specifically, the ministry found that the appellant did not establish why purchasing food was an unexpected expense, that she did not have the resources available to purchase food, and that failure to provide the supplement would result in an imminent danger to her physical health.

The relevant legislation is set out in the EAPWDR, Section 57:

- **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,

The ministry relied on the reconsideration decision, arguing that the ministry was operating within the limitations of the Act and Regulations. The ministry argued that the appellant did not meet the criteria of section 57 of the regulation because she had not identified how purchasing food became an unexpected expense. Further, the ministry was not satisfied that there were no resources available to the appellant to purchase food or that the appellant had accessed community resources for food. Finally, the ministry determined there was no evidence that if they did not give the crisis supplement it would result in imminent danger to the appellant's health. In making these determinations the ministry stated the appellant did not meet the criteria set in section 57 (1)(a) and (b)(i).

The appellant argued that, while the decision by the ministry may be accurate under the regulations, the regulations do not adequately meet the needs of the ministry's clients who are vulnerable and the regulations need to be changed. She further argued that the criteria in the regulations are too vague, allowing too much discretion by ministry employees. The appellant also argued that the amount of the supplement is too low to provide sufficient help in a crisis. The crisis occurs because the overall benefit is too low, thereby creating a cumulative effect of need. Finally the appellant argued the regulations do not allow the ministry to take into consideration unique conditions, such as hers.

At the hearing the panel explained to the parties that the panel does not have the jurisdiction to make changes to the regulations or the criteria used in their application. The panel's jurisdiction is limited in scope, by section 16 of the *Employment and Assistance for Persons with Disabilities Act*, to a review of the decision made by the ministry in applying the legislation / regulation on the basis of reasonableness.

The panel finds that the ministry's determination that the appellant's request for a crisis supplement for food did not meet the criteria of being an unexpected expense, was reasonable because monthly support was provided and the appellant was aware of the scheduled payments and food is not an unexpected need or expense. The panel finds that the ministry's determination that the appellant had not established she had no resources available to purchase food or obtain it from a local food bank, was reasonable, noting the appellant's evidence that it was more difficult to go to a food bank and she preferred to go to a grocery store. The panel finds there was no evidence provided that failure to supply the appellant's request for a crisis supplement for food would result in imminent danger to the appellant. For the foregoing reasons that the panel finds that the ministry's determination in denying the crisis supplement for food was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.