

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry)'s reconsideration decision dated May 28, 2013, finding the Appellant is not eligible to receive a crisis supplement in order to effect repairs to the roof of his mobile home because two of the three legislated criteria were not met as the need for the repair is not unexpected and failure to repair the roof will not result in imminent danger to physical health.

### PART D – Relevant Legislation

The relevant legislation is section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPDR).

## PART E – Summary of Facts

The Appellant is currently receiving disability assistance as a sole recipient.

On April 12, 2013, he submitted an application for a crisis supplement to effect repairs to the roof of his mobile home as it was leaking and creating a mould and fungus issue in his kitchen and bathroom. He subsequently submitted three quotations for the repairs at \$14,200, \$5940 and \$10,500. He stated that he would be willing to enter into a repayment agreement with the Ministry for \$50 per month.

On April 22, the Ministry denied the Appellant's request on the grounds that it did not meet the legislated criteria.

At the hearing the Appellant's advocate, a mental health worker, stated that the Appellant suffers from Tuberculosis and has great trouble breathing. Consequently, he spends almost all of his time in his mobile home. The damp and mould and fungus created by the leaky roof exacerbates his symptoms. In addition, the Appellant has shut down certain of his electrical services at the breaker for fear that the water leaking in might pose a danger of electric shock or fire.

The Appellant himself stated that the mobile home is about 30 years old, that the roof was repaired about 5 to 7 years ago and that it began to leak within two years of those repairs. He pursued the company who did the repairs but they had since ceased doing business.

On appeal, the Appellant provided a written submission prepared by a public health nurse which stated that the repair was essential as without it the Appellant could not continue to live in his home and other housing options were extremely limited in his community. This submission also stated that the leaking roof posed a danger to the Appellant in that there was the danger of electric shock or fire, of the roof and ceiling collapsing on the Appellant and of mould and fungus in the air.

At the opening of the teleconference hearing the Appellant's representative indicated that she had a written submission to provide to the panel. The panel inquired as to whether it provided any information in addition to what was already before the panel. The Appellant's representative stated that it did not, to which the panel responded that if she still wished to provide the written submission, she should indicate so as part of her presentation. The Appellant's representative did not address this further.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's decision finding the Appellant is not eligible to receive a crisis supplement to effect repairs to the roof of his mobile home.

The relevant legislation is section 57 of the EAPDR:

### 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.

A Ministry representative was not in attendance at the hearing so the panel relied upon the reconsideration decision as stating the Ministry's position. The Ministry denied the Appellant's request on the grounds that it did not meet all three of the legislated criteria:

1. The need for the item is unexpected or there is an unexpected expense;

2. There are no alternate resources available; and
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health

...

The Ministry's position is that criteria 1 and 3 are not met in this instance:

1. Home repairs are an ongoing expense, the damage happening over time, and so are not "unexpected".
3. While the Ministry acknowledges that certain types of mould and fungus could pose an imminent danger to the Appellant's physical health, there was no proof before the Ministry that this was indeed the case.

The panel finds that, while there is insufficient evidence to determine whether the mould and fungus pose a threat to the physical safety of the Appellant, in this instance the leaking roof does pose an imminent danger to the physical health of the Appellant due to the risk of electric shock or fire and the possibility of the roof and ceiling collapsing while the Appellant is in his home. Therefore, the third of the legislated criteria is met.

However, the panel cannot find that the repairs to the roof are an unexpected expense. The Appellant has known for some years (since soon after the previous repairs, 5 to 7 years ago) that the roof leaks, and could have taken action to address the issue before it became a threat to his physical health. Therefore the first legislated criteria is not met.

The Appellant has not met all three legislated criteria as required by section 57.

Accordingly, the panel finds that the Ministry's decision to deny the Appellant a crisis supplement to effect repairs on his roof was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.