

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of September 26th, 2013 wherein the appellant was denied a crisis supplement for a new bed under section 57 Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because he did not meet the legislated criteria set out in section 57(1) EAPWDR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed; and, that he did not have resources available to the family unit as set out in section 57(1)(a) EAPWDR.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Act (EAPDWA), section 5
Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Statement from appellant dated September 16th, 2013;
- Undated letter from the appellant's doctor providing medical evidence on the appellant's medical condition(s) and supporting the appellant's request for a new bed;
- Request for Reconsideration dated September 16th, 2013;

The appellant has been a sole recipient of assistance for several years and has had the Persons with Disabilities designation since 2007. The appellant receives monthly assistance of \$988.08 (\$375 for shelter, \$531.42 for support, \$40 for diet and \$41.68 for methadone treatment). The appellant has only received \$20 in crisis supplements within the past 12 months. The appellant requested assistance to replace his bed which is 12 or 13 years old as the springs have started to poke through the mattress so he has moved to sleeping on the sofa. Sleeping on the sofa is causing the appellant severe back ache and headaches because of his back problems. The appellant stated he has a severe head injury resulting in him having a very poor memory. As a result he did not foresee the need to save for a bed. The appellant stated he is not able to save for a bed and does not have resources available to him to purchase a bed or assist him with the purchase of a new bed. The appellant provided a letter from his doctor who has requested the ministry assist with the purchase of a bed to help the appellant manage his chronic debilitating pain secondary to medical conditions in his back. The doctor stated in his letter that the appellant has chronic debilitating pain secondary to his neck and back issues; a compression fracture in his neck and these conditions cause back pain and severe tension headaches. The doctor added the appellant has a disease related to substance abuse and dependency and that it is important that he improve his sleep hygiene as this will reduce his reliance on addictive medications, which he seeks to manage his pain.

Prior to the hearing the appellant submitted the following documents to the Employment and Assistance Appeal Tribunal (EAAT) to be considered by the panel:

1. A bank statement from the appellant's bank account covering the period of June 30th, 2013 to September 25th, 2013;
2. An outline of the appellant's monthly income and expenses for September 2013;
 - Income – until September 2013 - \$842.08; September 25th, 2013 - \$877.08;
 - Expenses - rent - \$300; hydro - \$70; natural gas - \$60; cable television - \$45; cellphone - \$70; car gasoline - \$150 and methadone - \$75.

The ministry did not object to the bank statement and the income/expense sheet being received by the panel for consideration.

The panel finds the bank statement and the outline of the appellant's income and expenses do contain information relevant to the issue under appeal and that these documents contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore are admissible as evidence under section 22(4) of the Employment and Assistance Act (EAA).

At the hearing the ministry relied on the facts in the reconsideration.

The appellant testified that he was involved in car accident several years ago and as a result he suffered a severe brain injury which affects his ability to plan and now he can no longer drive because he has seizures and the mental and physical ability is just not there. The appellant testified that he resides with his brother and his family and shares the living expenses; that he has lived with someone since the accident. The appellant explained his car gas expense is high because he receives a daily dose of methadone and because of his disability his brother drives him to the drug store. The appellant explained his doctor will not give him a prescription for multiple doses because of his addiction. The appellant also explained that he and his brother

recently moved which has resulted in a higher Fortis natural gas bill because more gas is utilized for heat and the stove is natural gas as well. The appellant testified he never thought to plan for a bed; that he contacted the ministry and was told that he would have to pay for the bed himself; that he should have planned for the expense. The appellant stated he didn't have any money or any resources to assist him in getting a new bed so he tried to make the best of it by moving around on the mattress until the springs let go and he was forced to move to the couch. The appellant stated that because he is sleeping on the couch the pain in his neck and back has increased and he is now he is taking oxycodone and T-4's which are narcotic based drugs and can further damage his liver. The appellant stated the prescription drugs put him and his health in danger because of his addiction.

The appellant provided the following responses to questions from the ministry:

- The appellant acknowledged that he receives an annual Special Transportation Subsidy of \$790.56 or \$66 per month (approximate) because he has a panic disorder and cannot utilize public transportation.
- The only discretionary money he has is used for cablevision and telephone expense. He stated all he can do all day is watch TV and since the expenses are shared his brother's family utilizes the TV for education and he needs the telephone to call his brother, make appointments and other personal uses.
- The appellant stated he doesn't have the ability to think ahead because of his head injury and that if he wasn't able to live with his brother he would be in a mental health facility because he cannot take care of himself.

The appellant provided the following responses to questions from the panel:

- The household costs – rent, hydro, natural gas and food at split evenly amongst the residents.
- After the accident he lived with his parents for a short time but has lived with his brother for several years.
- The only furniture he owns in the home is his bedroom suite.
- Community agencies stopped providing mattresses since the concern with bed bug infestation.
- He lived alone for a short period before he moved in with his brother but because of an accident (kitchen fire) he is scared to live alone.
- He utilizes a cellphone as his personal phone as there is no dedicated residential telephone.

The panel finds this testimony provided by the appellant does contain information relevant to the issue under appeal and is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) of the Employment and Assistance Act (EAA).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant a crisis supplement for a bed under section 57 EAPWDR because he did not meet the legislated criteria set out in section 57(1)(a) EAPWDR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed and there were no available resources.

The legislation considered: EAPWDR

Section 57

(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*.

In reference to an unexpected expense or obtain an item that is unexpectedly needed, section 57(1)(a) –

The ministry argued that the appellant receives monthly disability assistance and the ministry does not direct clients on how the money should be spent; that the appellant should be saving and planning his expenses. The ministry argued the appellant's living costs appear lower than normal; that he budgets \$150 per month for gasoline for his car and has a telephone expense of \$70 which the ministry considers discretionary expenses. The ministry argued the appellant needs to divert these discretionary dollars to make other purchases, i.e. a new bed. The ministry stated a bed is not considered an unexpected item of need.

The appellant argued that his head injury no longer provides him with the ability to plan. The appellant argued that when he discovered he needed a new bed he went to the ministry for assistance but was told a new bed would not be provided. The appellant argued that he does not have any disposable income and getting a new bed was not high on his list for planning. The appellant argued that in his circumstances purchasing a new bed is an unexpected expense.

The panel finds the evidence supports the ministry's position that purchasing a new bed should not be an unexpected expense. The appellant provided conflicting evidence by stating that obtaining a new bed was unexpected when the bed was 12 or 13 years old, several bed springs had broken, getting a new bed was not high on his priority list and he does plan a budget for his spending on other items.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement for a new bed because the crisis supplement was required to meet an unexpected expense or obtain an item that was unexpectedly needed is supported by the evidence and the ministry's decision was reasonable.

Further, in reference to section 57(1)(a) EAPWDR - regarding resources available to the family unit to meet the unexpected expense or obtain the item unexpectedly needed - the ministry argued that the appellant received monthly disability assistance and has resources available to purchase a new bed. The ministry argued the appellant has discretionary funds – telephone, television cable and car expenses that could have been utilized to purchase the bed but he chose to spend this money on other things which the ministry does not control.

The appellant argued that he does not have any extra money and that he needs and uses his cellphone as his only means of contact with anyone, especially when he needs to call his brother. The appellant argued the house does not have a dedicated telephone; he pays for the car gasoline because his brother has to drive him

on a daily basis to pick up his medication(s); and he is at home all day and unable to do anything so he watches television.

The panel finds the evidence is that the appellant receives monthly disability assistance and how he budgets and spends his money is his decision. The panel finds the appellant budgets his money for other items, therefore is capable of budgeting for a bed.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement for a new bed because there are no resources to meet the unexpected expense or obtain the item that is unexpectedly needed is supported by the evidence and the ministry's decision was reasonable.

In the reconsideration decision the ministry did not deny the appellant a crisis supplement on the basis of section 57(1)(b) EAPWDR. Therefore the panel has no jurisdiction to address this part of the legislated criteria.

The panel finds that the ministry reasonably determined the appellant was not eligible to receive a crisis supplement for a new bed and therefore finds the ministry's decision to deny the appellant's application of September 13th, 2013 for crisis supplement for a new bed was reasonable.

Therefore, the Panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the Employment and Assistance Act.