

PART C – Decision under Appeal

The decision under appeal is the Reconsideration Decision of September 23, 2013 in which the Ministry of Social Development and Social Innovation (the Ministry) held that the appellant is not eligible for a crisis supplement for a bed pursuant to section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The Ministry determined that the appellant does not meet all the legislative criteria as follows:

- the appellant had indicated that she did not treat her residence properly because she did not want her landlord to know that she had brought bed bugs in. Therefore it is not unexpected that the bed bug problems would persist. Her decision to dispose of, rather than to treat, her bed did not create an unexpected need.
- the appellant did not provide information to establish that she has no resources available to meet her need.
- there was not sufficient information available to establish that failure to meet the expense would result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act section 5 (EAPWDA).

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

PART E – Summary of Facts

The appellant did not attend the hearing. After establishing that the appellant had been notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation (EAR).

The facts before the Ministry at reconsideration were:

The appellant is currently receiving disability assistance as a single person. The appellant's file was opened in February 2006. On August 8, 2013 the appellant was advised that she was not eligible for a crisis supplement for a bed. On September 9, 2013 the appellant submitted a Request for Reconsideration.

In its Reconsideration Decision the Ministry stated that the appellant advised the Ministry on August 2, 2013 that she had a bedbug infestation in her home and had to replace her bed. A Ministry worker whom the appellant spoke with noted that the appellant had been provided with a mattress cover. On August 8, 2013 the appellant advised the Ministry that she had brought bed bugs into her residence and did not want to tell her landlord. She stated that she had kept spraying with Raid. The Ministry worker advised the appellant that she would need to have her residence fumigated in order to effectively treat the bed bugs.

In her Request for Reconsideration the appellant stated that she got rid of her bed due to bed bugs and that the bed bugs are now gone. She mentioned that she was using air mattresses which kept popping on her and that she was sleeping on the floor. The appellant said that she had diabetes and that she also had poor circulation from sleeping on the floor. She found it hard to move around; her muscles give out and she falls and hurts herself.

The Ministry advised at the hearing that the appellant, when she made her application for a bed, would have been asked a standard set of questions so that the Ministry could determine if she met the legislated criteria for the supplement. This information was not in the appeal package.

PART F – Reasons for Panel Decision**Issue**

The issue under appeal is whether the Ministry's decision which denied the appellant's request for a crisis supplement for a bed, as the requirements of section 57 of the Employment and Assistance for Persons with Disabilities Regulation were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Legislation

Section 57 of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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 a 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*.

Unexpected expense or obtain an item unexpectedly needed

The Ministry's position is that the appellant did not treat her residence properly because she did not want her landlord to know that she had brought in bed bugs; therefore, it is not unexpected that the bed bug problem would persist. The appellant's decision to dispose of, rather than to treat, her bed did not create an unexpected need.

Panel Decision

The panel's accepts that the bed bug infestation of the appellant's residence was not deliberately caused. However, the appellant's failure to treat her residence properly because she did not want her landlord to know that she had brought in bed bugs resulted in damage to the appellant's bed. The appellant's premeditated decision to dispose of, rather than to treat, her bed did not create an unexpected need. It must have been obvious to the appellant if she disposed of her bed another would be needed. Therefore the panel finds that the Ministry's determination that the bed expense was not an unexpected expense or an item unexpectedly needed under section 57(1)(a) of the EAPWDR, was reasonable.

PART F – Reasons for Panel Decision (continued)**Resources available to family unit**

The Ministry's position is that the appellant had not provided information to establish that she had no resources available to meet her need. The appellant receives monthly disability assistance which is provided as a resource to help her meet basic household needs. The Reconsideration Decision stated that the appellant had not provided any detailed information about her finances or the price of a bed that would allow the Ministry to conclude that the appellant did not have the resources to purchase a bed or to budget for the purchase of a bed.

Panel Decision

The onus being on the appellant, she provided no detailed information about her finances nor the manner in which her periodic GST rebate cheques were being expended. The appellant provided no evidence that she had attempted to access family, friends or community resources in order to meet her need. The panel finds that the Ministry's conclusion that it cannot be determined that there are no resources available to the family unit to meet the expense under section 57(1)(a), was reasonable.

Failure to meet expense will result in imminent danger to physical health

The Ministry found that information had not been provided to establish that failure to obtain a bed would result in imminent danger to the appellant's physical health. The Ministry added that although the appellant stated that she has diabetes and poor circulation, she has not provided any verification that any of those conditions has any connection to her need for a bed. The Ministry noted that the appellant had not explained how her need for a bed relates to her muscle condition which, she states, causes her to fall.

In her written Request for Appeal submission the appellant expressed her disagreement with the Ministry's Reconsideration Decision and wrote that diabetes is causing her much pain if not carefully managed. She writes that her muscle condition, due to bad circulation by sleeping on the floor, causes her to fall and hurt herself. The appellant said that she cannot get up when sleeping on the floor.

Panel Decision

The appellant states that she has diabetes and that sleeping on the floor has resulted in poor circulation which causes her muscles to give out on her resulting in her falling and hurting herself. The appellant provided no medical or physician's report to support her statement that she has diabetes or that she has a muscle condition. The appellant did not provide any information of any attempts made to replace her defective mattress which event would have alleviated her poor circulation and muscle condition. The panel finds that the Ministry's conclusion that there is insufficient information to establish that failure to meet the cost of a bed will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to section 57(1)(b)(i) of the EAPWDR, was reasonable.

PART F – Reasons for Panel Decision (continued)**Conclusion**

Section 57 of the Employment and Assistance for Persons with Disabilities Regulation stipulates that all of the legislative requirements of the section must be met in order for a person to be provided with a crisis supplement. The panel finds that the Ministry's Reconsideration Decision, which denied the appellant a crisis supplement for a bed because all the legislative criteria of section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the Ministry's decision.