

PART C – Decision under Appeal

The decision being appealed is the Ministry of Social Development and Social Innovation (the “Ministry”) May 21, 2014 reconsideration decision in which the Ministry determined that the Appellant was not eligible for a crisis supplement to re-establish her phone service because it determined that:

- The requirements of section 57(1)(a) of the EAPWDR were not met.
- The failure to re-establish the phone service will not result in imminent danger to the physical health of any person in the family unit as required by section 57(1)(b)(i) EAPWDR.
- The requested amount exceeds the maximum monthly shelter allowance that the Appellant’s family unit is eligible for under section 4(2) Schedule A of the EAPWDR.
- Phone services are not defined as a utility under section 57(7) of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (“EAPWDA”) Section 5.

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) Section 57, Schedule A Sections 4 and 5.

PART E – Summary of Facts

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant:

- Has Persons with Disabilities (“PWD”) designation and is a PWD recipient with a dependent spouse and no dependent children; that is, a family unit of 2 persons.
- Receives \$1270.55 monthly assistance, consisting of \$570 for shelter and \$700.56 for support.
- Has shelter costs of \$900 rent plus utilities.

2. Appellant’s request for a crisis supplement to reconnect her phone service.

3. Appellant’s May 6, 2014 request for reconsideration in which she wrote that:

- In December 2013, her phone bill was paid in full.
- Neither she nor her spouse received any money in January or February 2014, and she only received income assistance in March 2014.
- By the time they caught up on rent and purchased some groceries, there was no money left.
- She and her spouse are both on very strong antidepressants and both attend counseling; she does phone counseling through a program requiring a phone; she referred to letters already submitted to the Ministry.
- Suicide is a very strong side effect from depression and the pills they take.
- If a medical situation arises, they would have no way to get help, call 911 or the suicide hot line without a phone.
- They also have no vehicle so they need their phone to make appointments and arrange rides to and from appointments.
- If they are declined the crisis supplement, she fears for their lives.
- She has been referred to a psychiatrist and without a phone she will not be able to receive the call to get the help she desperately needs.
- Her spouse is in imminent danger if they do not get the help ordered from their doctor.

4. Bills from a phone provider as follows:

- One dated January 24, 2014 indicating \$944.19 due by February 13, 2014.
- One dated February 18, 2014 indicating monthly charges of \$135.95 and \$517.05 due on March 10, 2014.

5. Disconnection Notice indicating that \$353.99 was due on February 24, 2014.

6. Letter dated April 2, 2014 from a counselor confirming that the Appellant is receiving telephone counseling through a specific community program.

7. Letter dated March 3, 2014 from a doctor stating that the Appellant is being treated for a major depressive disorder, indicating major depression and anxiety, multiple recent personal stressors including deaths in the family and financial difficulties. The Appellant is being treated with anti-depressants and is undergoing counseling. She is waiting for a consultation with a psychiatrist.

In her notice of appeal dated May 30, 2014, the Appellant wrote that their phone bill was paid in full as of December 2013. Her work disability was cut off until she can get an appointment with a psychiatrist. She stated that they received no money for January, February or March so all bills got very far behind. Because there is only one psychiatrist in the area it will take time to get an appointment. The Appellant wrote that without a phone she will not be able to receive a call when an appointment is available.

The Appellant also stated that she and her husband both suffer from severe depression and anxiety,

and she has been diagnosed with PTSD. She submitted that the Ministry has put their lives in danger as they both have suicidal thoughts, but with their phone counseling, they have been able to work through it. They do not have a vehicle and live in a very rural area about 35 minutes from town and about 1.5 hours from a major centre. The Appellant submitted that they need their phone, not only for phone counseling, but to arrange appointments with doctors and to arrange rides to get there. She wrote that the Ministry decision did not reflect the information that she provided.

At the hearing, the Appellant stated that in 2009 her mother died 3 times at her feet. When she finally passed away, it was a very difficult time for the Appellant. Also, in the last year, the Appellant has lost several friends and two relatives died a horrifying death. The Appellant said that these events have caused her to suffer from PTSD [Post Traumatic Stress Disorder]. The Appellant also provided the same information as she previously did in her request for reconsideration and notice of appeal.

The Appellant explained that she is locked into a 3 year contract with bundled services for a cell phone, internet and phone land line. She said she cannot get out of the contract or get to a bare bones plan for about \$100 a month until the total overdue amount is paid. The Appellant said that the phone land line does not go to their home from the utility poles and cell phones do not work where they live, so a pre-pay cell phone is not an option. She said in the rural area where they live they have to get a package of services through the service provider they are using to get the necessary equipment and services in their rural area. The Appellant also said that she was able to pay part of the outstanding bill to lower the amount owing.

The Appellant provided a letter dated June 13, 2014 from the same doctor who wrote the March 2014 letter. In the second letter, he stated that as part of a treatment program for some medical issues that this family is dealing with, they require the availability and reliable use of a home phone.

Pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits the Appellant's statements in her notice of appeal, her oral testimony at the hearing, and the doctor's second letter because the Panel finds that the information provided is consistent with and in support of the evidence that the Ministry had at reconsideration.

At the hearing, the Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant's family unit is eligible for disability assistance in the amount of \$1270.55 monthly assistance, consisting of \$570 for shelter and \$700.56 for support
2. The Appellant's actual shelter costs include monthly rent of \$900 plus utilities.
3. The Appellant's family unit had no income in January and February 2014.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement to re-establish her phone service because:

- The requirements of section 57(1)(a) of the EAPWDR were not met.
- The failure to re-establish the phone service will not result in imminent danger to the physical health of any person in the family unit as required by section 57(1)(b)(i) EAPWDR.
- The requested amount exceeds the maximum monthly shelter allowance that the Appellant's family unit is eligible for under section 4(2) Schedule A of the EAPWDR.
- Phone services are not defined as a utility under section 57(7) of the EAPWDR.

The following section of the EAPWDA applies to the Appellant's circumstances in this appeal:
 5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

The following sections of the EAPWDR apply to the Appellant's circumstances in this appeal:

- 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.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (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, and
- (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 subsections 4(b) or (5) or both, as 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.

Schedule A

4(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Family Unit Size	Maximum Monthly Shelter
------------------	-------------------------

2 persons

\$570

5(1) for the purpose of this section, utility costs for a family unit's place of residence include only the following costs: (a) fuel for heating, (b) fuel for cooking meals; (c) water; (d) hydro; (e) garbage disposal provided by a company on a regular weekly or biweekly basis; (f) rental of one basic residential single-line telephone.

The Parties' Positions

In its reconsideration decision, the Ministry wrote that the Appellant had no resources to pay the arrears owing to the phone provider and also, the need to re-establish phone service was unexpected because the Appellant and her spouse had no income for 2 months. However, the Ministry also wrote that it was unable to assist the Appellant with re-establishing her phone service because her shelter allowance of \$570 is not sufficient to re-establish that service because the Appellant's rent is so high. In addition, the Ministry considered the Appellant's phone services to be an ongoing expense. It stated that crisis supplements are not used for ongoing expenses or to increase the shelter allowance when ongoing shelter costs are unmanageable or beyond the shelter allowance. Also, phone services are not considered an essential utility.

The Ministry further determined that it was unable to assist the Appellant with a crisis supplement to re-establish her phone account because there was no evidence that the failure to re-establish the phone service would result in imminent danger to the physical health of any person in her family unit.

The Appellant's position is that phone service is essential because she and her husband live in a rural area, do not have a vehicle and have to maintain contact with their counsellors and medical providers. The Appellant provided two letters from her doctor to confirm her medical condition and her need for a phone. The Appellant submitted that both she and her husband face imminent danger to their health without the phone because both have serious health conditions, including severe depression, anxiety and suicidal thoughts. The Appellant stated that she needs a phone for her phone counseling sessions, to arrange doctor appointments, and rides to get to those appointments. The Appellant also stated that without a phone she is unable to receive a call from the psychiatrist to whom she was referred to arrange an appointment.

The Appellant explained that where they live there is no cellular phone service and the telephone land line does not extend from the utility poles into their house. Therefore, they had to obtain a package of services, which included phone, internet and television through a service provider who could provide the necessary equipment and services in their rural area.

The Panel's Findings

The Ministry may provide a crisis supplement to the Appellant, who is designated as a PWD, if the applicable requirements in section 57 of the EAPWDR are met. In this case, it is not clear to the Panel whether or not the Ministry determined that the Appellant met the requirements in section 57(1)(a). On the one hand, the Ministry wrote that it accepted that the Appellant had no resources to pay an outstanding expense and the need to re-establish phone service was unexpected. However, the Ministry seemed to qualify that by stating that it cannot use crisis supplements to meet ongoing expenses such as phone services or to increase the shelter allowance when ongoing shelter costs are unmanageable or beyond the shelter allowance. Based on this latter statement, the Panel finds

that the Ministry determined that the Appellant did not meet the requirements of section 57(1)(a).

With respect to the requirements in section 57(1)(b)(i), the Panel notes that the Appellant described her health conditions, as well as her husband's. Both of them are receiving treatment for those conditions, including counseling. The Appellant also provided two letters from her doctor, one regarding her conditions and the second indicating that as part of their treatment program the Appellant's family needs the reliable use of a home phone.

The Panel notes that section 57(1)(b)(i) requires evidence of imminent danger to the physical health of any person in the family unit. The Panel finds that, although the Appellant and her husband both have health conditions requiring medical attention and counselling, the Ministry reasonably determined that the evidence did not establish there is imminent danger to the physical health of any person in the family unit.

Regarding the issue of shelter costs and phone services, under section 4 in Schedule A of the EAPWDR, the monthly shelter allowance is defined as the smaller of the family unit's actual shelter costs and the maximum eligible amount for the size of the family unit set out in that section. Section 5 of Schedule A sets out how actual monthly shelter costs are calculated and under section 5(2)(e), utility costs are part of the calculation, as well as rent or mortgage payments. Utility costs are defined in section 5(1) to include rental of one basic residential single-line telephone. Under Schedule A section 4, the Appellant's family unit is eligible for \$570 as a monthly shelter allowance. In this case, however, the Panel finds that the Appellant's rent is \$900 a month, which exceeds the maximum shelter allowance of \$570 provided for in Schedule A section 4. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant is not eligible for a crisis supplement for additional funds for shelter costs to re-establish phone services.

Under section 57(7), the Ministry may also provide a crisis supplement for fuel for heating, fuel for cooking meals, water or hydro provided that the other requirements in section 57 are met. The Panel notes that phone service is not listed in section 57(7). Therefore, the Panel finds that the Ministry reasonably determined that the Appellant is not eligible for a crisis supplement under that provision of the EAPWDR because phone service is not one of the utilities listed and also the other requirements for a supplement were not satisfied.

The Panel's Conclusion

Having considered all of the evidence and the applicable legislation, the Panel finds that the Ministry reconsideration decision was reasonably supported by the evidence. Therefore, the Panel confirms that decision.