

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated November 13, 2014 that the appellant did not qualify for a crisis supplement for wood pellets and propane home heating fuels because the information provided did not establish that under section 57(1) of the EAPWDR:

- The supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed
And
- The appellant had no resources available to meet the need for heat
And
- Failure to provide the item would result in imminent danger to her physical health.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act section 5,
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57.

PART E – SUMMARY OF FACTS

The following evidence was before the ministry at the time of reconsideration:

- Ministry records show the appellant receives \$902.42 disability assistance as a single person, the maximum amount available.
- The appellant's owns her own home and the ministry's file indicate the appellant's current mortgage payment is \$208.63, and she receives an additional \$166.37 per month to assist with utility bills; the appellant receives the maximum amount of \$375.00 per month for her monthly shelter rate.
- Ministry records show that in 2011 the ministry paid for the purchase and installation of a gas furnace.
- On September 9, 2014 the appellant requested a crisis supplement for propane and wood pellets to heat her home.
- On September 23, 2014 the appellant advised the ministry that she has been borrowing wood pellets but cannot continue to do so.
- On September 30, 2014 the ministry received a quote for wood pellets in the amount of \$1,045.48 (September 9, 2014), and a quote for propane fuel delivery in the amount of \$383.48 (February 4, 2013).
- On October 14, 2014 the appellant advised the ministry that she has been using her home equity for covering her heating costs, and she is unwilling to continue doing this.
- The appellant's request for reconsideration dated November 4, 2014 stating that she suffers from Raynaud's disease which leaves her with extreme vasoconstriction of her hands and feet triggered by cold conditions; the request included the following documents:
 - A copy of a 2010 doctor's note confirming that the appellant is suffering from Raynaud's which leaves her with extreme vasoconstriction of her peripheral vasculatures triggered by cold conditions. Her COPD and Asthma are also affected by her housing condition.
 - A photocopy of the appellant's hands, palms up.
 - A copy of a consultation report based on a July 23, 2014 examination confirming the appellant's complaint of pain in her hands, particularly, in the area of the carpometacarpal joints of both thumbs, and recommending splinting.
 - A copy of an August 14, 2014 referral from the appellant's doctor concerning orthotics documenting that the appellant has moderate severe OA features predominantly in the carpometacarpal joints of both hands.
 - A copy of a document from the appellant's doctor signed October 16, 2014 completed in support of a handicap parking permit documents, and outlining that the appellant has severe Reynaud's and tendonitis bilaterally.

In her Notice of Appeal received on November 20, 2014, the appellant wrote that the ministry's response was incorrect regarding what she has in her home for heat, and that her disability is an imminent threat to her physical health without heat for her home.

Prior to the hearing, a November 25, 2014 letter from a bank financial advisor was submitted and received. The financial advisor denied the appellant's application for credit, due to her lack of capacity and based on her budget. The ministry did not object to the admissibility of this evidence.

Prior to the hearing, a December 11, 2014 letter from the appellant's doctor was submitted and received. The doctor wrote that the appellant suffers from severe Raynaud's Disease exacerbated by cold temperatures, her COPD & Asthma is also triggered this way. Heating during the winter is of utmost importance to prevent her from being hospitalized. The ministry did not object to the admissibility of this evidence.

The panel has determined that the additional evidence provided by the appellant in her Notice of Appeal concerning her bilateral hand condition and the December 11, 2014 letter from her physician are admissible under s.22(4) of the EAA as these are in support of the evidence before the ministry at reconsideration.

The panel has determined that the additional evidence of the November 25, 2014 letter from a bank financial advisor will be admitted, as it is in support of evidence before the ministry at reconsideration, namely, that the appellant has been using her home equity to cover expenses including her heating costs and that the evidence addressed the issue of the appellant having the necessary resources available to obtain the heating fuels.

The appellant's testimony at the hearing is as follows. This fall, her Raynaud's condition has felt worse. She is no longer able to supplement her income with additional earnings because of the extent of her Raynaud's disease. The appellant has lived in her home, a mobile home, for the past 11 years, and has considered moving to a warmer climate for her health but can't afford to do this. Her symptoms are worsened by the cold, and very quickly her fingers turn white and she is unable to move them when cold. She sleeps with a heating pad, and finds that gloves are not effective in reducing the cold in her hands. The appellant clarified that the ministry did not buy a gas furnace for her, but rather, a propane furnace. The appellant has continued to borrow pellets for her pellet stove, her furnace is operational but the propane tank is empty, and she recently borrowed \$1,100.00 to install a wood stove. She has yet to pay the lender for the \$1,100.00.

In response to questions from the ministry and the panel, the appellant said that if she were to use the propane furnace, she would need to fill the tank at least twice during the winter season. Propane is expensive. She borrowed money for the purchase of the wood stove about a month ago, as this is a one-time expense; wood is a free fuel and this will last for the winter. She also said that the pellet stove runs on electric power, and the wood stove provides backup.

In response to questions from the ministry and the panel, the appellant said that she had unexpected expenses during the year, including truck repairs, that took away money she would otherwise have used for her winter heating expenses. Her utility expenses also include hydro at \$100.00 a month, plus mortgage insurance, telephone, and other utility related expenses that exceed the amount provided by the ministry in her shelter allowance.

The panel finds the appellant's testimony relates to her shelter expenses, resources available to her, and her medical condition of Raynaud's disease. The panel therefore admits the testimony as evidence in support of the information and records that were before the ministry at the time the decision being appealed was made.

At the hearing, the ministry summarized its reconsideration decision and did not introduce any new evidence. The ministry noted that the appellant is receiving the maximum shelter allowance.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement to buy propane and wood pellets to heat her home was reasonably supported by the evidence. The ministry determined that the appellant did not qualify for a crisis supplement for shelter costs because the information provided did not establish that, as required under section 57(1) of the EAPWDR:

- The supplement was needed to meet an unexpected expense or obtain an item unexpectedly needed
And
- The appellant had no resources available to meet the need for heat
And
- Failure to provide the item would result in imminent danger her physical health.

The following section of the EAR applies to this appeal:

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, ...

(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; ...

(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.

Unexpected expense or obtain an item unexpectedly needed:

The appellant argues that she needs money for propane and wood pellets because she has insufficient funds available to her to meet these expenses. At the hearing, she said that her Raynaud's disease has worsened, and she is no longer able to supplement her income with work, and that she had unexpected truck expenses earlier this year that impacted on her ability to save for winter heating costs.

The ministry argues in their November 13, 2014 reconsideration decision that the appellant's heating costs are not unexpected, as these are regular and ongoing. Accordingly, the ministry was unable to establish that the request for a crisis supplement for propane and wood pellets was due to an unexpected event; heating costs are not considered an item that is unexpectedly needed.

The panel finds that the ministry reasonably determined that the appellant's need for the crisis supplement was not due to an unexpected expense. The appellant had unexpected expenses during the year including truck repairs that reduced her available income for shelter expenses, including heating expenses. The need for pellet fuel and propane however, was not unexpected, as she has been residing in this home for 11 years, and has been required to heat her home for the 11 previous winters.

No resources available to obtain the item:

The appellant argues that she should not have to borrow wood pellets to heat her stove, but she confirmed at the hearing that she is continuing to do so. The appellant argued that she did not wish to continue using her home equity for covering her heating costs, but at the hearing, she confirmed that she did borrow \$1,100.00 to buy and install a wood stove as wood fuel is free. She also submitted a letter from her bank confirming she is unable to obtain further credit as of November 25, 2014 (date of letter).

The ministry argues in their November 13, 2014 reconsideration decision that the appellant receives the maximum disability assistance for a single person, as well as federal tax credits, e.g. GST. The ministry argues that although this may be enough to pay for wood pellets, the appellant has a gas (clarified at the hearing as propane) furnace to heat her home. The ministry argues that the appellant does not meet the criteria of having no available resources.

The panel finds that resources would have been available to obtain the requested wood pellets and propane, as the appellant was able to borrow money to buy a wood stove, and therefore finds the ministry's decision on this criteria was reasonably supported by the evidence.

Imminent danger to health:

The appellant argues that her Raynaud's disease has worsened, and that cold weather presents an imminent danger to her health. In support of this, the letter from her physician dated December 11, 2014 outlines that heating during the winter is of "utmost importance" to prevent her from being hospitalized. Her Raynaud's disease is exacerbated by cold temperature, and was described as severe.

The ministry was not satisfied that failure to meet the expense for wood pellets and propane would result in imminent danger to the appellant's physical health as she has a furnace to heat her home.

The panel finds that the information from the physician is compelling and current, and provides reliable evidence that failure to provide heating fuel (propane and pellets) by way of a crisis supplement would result in imminent danger to the appellant's physical health. Therefore, the ministry's decision on this criteria is not reasonably supported by the evidence.

Conclusion:

The panel finds that the ministry's decision to deny the appellant a crisis supplement to pay wood pellets and propane because she did not meet all of the criteria under section 57(1) of the EAPWDR was reasonably supported by the evidence. The panel confirms the ministry's decision.