

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation ("Ministry") September 16, 2014 reconsideration decision denying the Appellant a crisis supplement for utilities for furnace fuel under section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because she did not meet the requirements of section 57. Specifically, the Ministry determined that the supplement was not required to meet an unexpected expense or that the item was an item unexpectedly needed, and the Appellant did not demonstrate that she was unable to meet the expense or obtain the item because she had no resources available pursuant to subsection (1) (a).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act section 5
Employment and Assistance for Persons with Disabilities Regulations section 57

PART E – Summary of Facts

The Appellant is a recipient of disability with no dependants.

At the beginning of the hearing, the Appellant indicated she had only received the appeal package in the mail 3 days ago and so did not have time to submit additional information to support her case. While records indicate that the appeal package was delivered 11 days ago, the Appellant states this was not when she really received it. The appellant did not request an adjournment but chose to proceed. The panel informed the appellant she could present additional information orally.

The evidence before the Ministry at reconsideration included the following documents:

1. A Hydro bill dated March 5, 2014, indicating the account was past due and the amount outstanding is \$166.27
2. A letter from the Appellant dated September 9, 2014, requesting the crisis supplement as the weather is already quite cool, she is falling behind financially because in addition to her septic freezing last winter she put two cats down; her health is an issue and she lost 50 lbs, is getting a cold and scheduled for gall bladder surgery.
3. The Request for Reconsideration on which the Appellant noted that she is sick, scheduled for gall bladder surgery and so doing firewood is not acceptable, the Appellant is susceptible to colds as she has Hepatitis C from a blood transfusion and it is getting cold at night.
4. A doctor's note dated September 3, 2014 indicating that the Appellant will be having surgery and her health issues make it very difficult to heat her home with wood heat, and the appellant should not do excessive lifting and carrying and therefore it would be best if she heats her home with an alternative heating method. In her case she has an oil furnace.

At the hearing, the Appellant provided the following verbal evidence:

1. She is falling behind financially. Last year there was an exceptionally heavy snow fall and she paid \$200 for snow removal, spent \$2000 on firewood, \$300-\$500 on garbage, and \$500 on gas for transportation. Last spring the Ministry covered \$1000 to repair the frozen septic but she had leaking goosenecks in the basement which the Ministry did not cover. Also, her property taxes are still outstanding and she needs new tires for her vehicle. Her credit card is maxed out and she is worried that her car will be taken. She does not have any money for furnace fuel.
2. The Ministry provides \$375/month shelter but her shelter costs are actually quite higher. The costs have not been calculated since 2008, and do not include her house insurance. Her hydro is now on an equal payment plan and has high payments. \$375 is the maximum shelter allowance so having up-to-date shelter calculations would not be helpful, as it will not increase her monthly entitlement. She has considered selling her home and moving to a smaller home but did not do so this summer because the yard has not been taken care of.
3. She has Rheumatoid Arthritis and is currently doing 10 – 12 armloads of firewood per day. She is using the wood stove all the time. Her daughter put a bunch of wood up on the porch for her. She had gallbladder surgery 2 months ago and should not be moving wood. She also has arthritis and a fused neck, and is sick with the flu. She also sweats due to hot flashes and hormones; this causes her to catch pneumonia when the house is cold. She is concerned she may have heart disease due to being on hormone medications for too long.
4. Her floors are cold; her dog has arthritis and is in pain, her grandson always has a cold.

The Ministry relied on the Reconsideration Decision but added:

1. The appellant has no mortgage costs
2. It was not cold in August, when the initial request was made, and the Appellant was not in imminent danger, nor did she meet the other two criteria. (The panel clarified that at Reconsideration in September the Ministry determined that the Appellant met the third criteria for a crisis supplement (imminent danger to physical health) but that she did not meet the first two criteria.)

The panel finds that the additional evidence provided by the appellant and the Ministry clarifies the evidence reviewed at the time of reconsideration and is admissible under Section 22(4) of the Employment and Assistance Act as it is in support of the information before the Ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request for a crisis supplement for utilities for furnace fuel.

Section 5 of the EAPWDA states:

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.

Section 57 of the EAPWDR states:

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.

Ministry's Position

The Ministry found at reconsideration that not having access to fuel for the furnace may result in imminent danger to the physical health of the applicant, satisfying section 57(1)(b)(i). The Ministry also found that neither the weather becoming colder in fall/winter nor the need for furnace fuel could be characterized as an unexpected expense or an item unexpectedly needed as required under 57(1)(a) and found that the Appellant was not eligible for the crisis supplement.

The Ministry argued that the Appellant has no mortgage costs and receives the maximum monthly shelter allowance of \$375, has been living in this house for seven years and knows that she requires wood, hydro, and furnace fuel in order to heat the home in the winter. The shelter monies issued each month are meant to be budgeted to cover winter heating costs.

The Ministry also noted that the Appellant has not provided any banking information to demonstrate that she does not have the resources to pay to heat her home.

Appellant's Position

The Appellant argued that she was unable to save for furnace fuel as a result of additional unexpected costs related to the freezing of the septic tank last spring, and the higher than average amounts of snow last winter, in addition to having her cats put down.

The Appellant states she has no additional financial resources with which to purchase the fuel; her credit card is maxed and she is behind on her property taxes, and there are other items that she is also unable to purchase that she needs, such as tires.

Panel Decision

The legislation stipulates, among other things, that in order for the Appellant to be eligible for a crisis supplement the recipient must first show that she requires the supplement to meet an unexpected expense or that the item was unexpectedly needed, and that she does not have the resources to pay for the item.

The panel finds that the Ministry reasonably determined that furnace fuel for the winter was not an unexpected expense or an item that was unexpectedly needed, as required by the legislation.

The panel also finds that the Ministry reasonably determined that the appellant did not demonstrate that she did not have the resources to pay for furnace fuel. As noted by the Ministry, the Appellant is given a monthly shelter allowance. As she has no mortgage, this allowance is specifically to cover the Appellant's utility costs. While the Appellant stated that she did not have the resources due to expenses from last winter, at the time of the reconsideration the Appellant had not provided bank statements or other evidence to support her assertion.

For these reasons, the panel finds that the Ministry's determination that the Appellant was not eligible for a crisis supplement to purchase furnace fuel was a reasonable application of the legislation and confirms the Ministry's decision.