

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated 16 January 2015 that denied the appellant's request for a crisis supplement to cover his rent for January 2015. The ministry determined that, since the appellant was not eligible for income assistance for January 2015, under section 59 of the Employment and Assistance Regulation he is not eligible for a crisis supplement for that month.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), sections 10, 44 and 59.

PART E – Summary of Facts

The appellant did not appear at the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration included the following:

1. From the ministry's files, as set out in the ministry section of the Request for Reconsideration:
 - The appellant was a sole recipient of income assistance, receiving \$235 in monthly support allowance and \$375 in monthly shelter allowance, for a total of \$610 per month. His file was reopened in October 2014.
 - In November 2014 the appellant received a Canada Pension Plan lump sum payment of \$692.16. As CPP is considered unearned income, it is deducted dollar for dollar from the recipient's monthly income assistance. As the money was received in the month of November 2014, it affects his benefits for January 2015. As this income is greater than his monthly assistance rate, he was not eligible for income assistance for January 2015. The appellant did not seek a reconsideration of that decision.
 - On 07 January 2015, the appellant applied for a crisis supplement to cover his rent for January of \$400.
2. The appellant's Request for Reconsideration dated 09 January 2015. Under Reasons for Request, the appellant writes that he applied for income assistance on 15 September 2014. It was not until 30 October 2014 that his application was approved. He did not receive any assistance for the month of September 2014 and because of this he owed back rent of \$400. In November he received a CPP benefit and used this to pay off the back rent owing for September. Because he received the CPP money in November he became ineligible for assistance for the month of January 2015. He writes that he explained the situation to ministry staff and was informed that he could apply for a crisis supplement. He goes on to state that on 01 January 2015 he received an eviction notice for failure to pay rent. He provided this notice to the ministry office. His request for a crisis supplement was denied and he is now appealing this denial.

Attached to the Request for Reconsideration is a copy of a "10 Day Notice to End Tenancy for Unpaid Rent or Utilities" signed by the appellant's landlord on 01 January 2015. The Notice indicates that the appellant has failed to pay rent in the amount of \$400 that was due on 01 January 2015.

The appellant's Notice of Appeal is dated 27 January 2015. He writes that he has requested reconsideration for the excess income decision, and has appealed that decision. He states that "There are many errors."

At the hearing, the ministry stood by its position at reconsideration (see also Part F, Reasons for Panel Decision).

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement to cover his rent for January 2015, because the appellant was not eligible for income assistance for January 2015 and under section 59 of the Employment and Assistance Regulation he is not eligible for a crisis supplement for that month, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The applicable legislation is from the EAR:

Limits on income

- 10** (1) For the purposes of the Act and this regulation, "**income**", in relation to a family unit, includes an amount garnished, attached, seized, deducted or set off from the income of an applicant, a recipient or a dependant.
- (2) A family unit is not eligible for income assistance if the net income of the family unit determined under Schedule B equals or exceeds the amount of income assistance determined under Schedule A for a family unit matching that family unit.

Family units that have excess income

- 44** The minister may provide hardship assistance to a family unit that is not eligible for income assistance because the income of the family unit exceeds the limit under section 10 [*limits on income*] if
- (a) the minister considers that undue hardship will otherwise occur,
 - (b) the applicant provides the type of security specified by the minister for the repayment of the hardship assistance,
 - (c) the family unit includes one or more dependent children, and
 - (d) the income that causes the family unit to be ineligible for income assistance could not, in the minister's opinion, reasonably be expected to be used to meet the family unit's basic needs.

Crisis supplement

- 59** (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*.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (3) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
 - (b) any other health care goods or services.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit,

- (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;
- (c) if for clothing, the amount that may be provided must not exceed the smaller of
 - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
 - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.
- (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 income 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 subsection (4) (b) or (5) or both, a 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.

In the reconsideration decision, the ministry notes that section 59(1) of the EAR states that the Minister may provide a crisis supplement to a recipient of income assistance, and section 59(2) states a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made. The appellant requested a crisis supplement in January 2015 for his January rent. As the appellant was not provided income assistance (shelter and/or support) for January 2015, it is the position of the ministry that, pursuant to sections 59(1) and (2) of the EAR, the appellant is not eligible for a crisis supplement for January 2015

At the hearing, the ministry explained that eligibility for income assistance is considered on a month-to-month basis, with eligibility determined by what is reported in the client's monthly report. The appellant was not eligible for income assistance for January 2015 because the income reported by the 5th of December 2014 report exceeded his monthly assistance rate. His next report, which would have been submitted before 5th January 2015, would be considered an application for eligibility renewal, and his assistance for February would have been determined accordingly. The appellant would not have been eligible for hardship assistance as he is a sole recipient with no dependent children.

As the appellant did not appear at the hearing, the panel can only infer his position from what he wrote in his Request for Reconsideration and Notice of Appeal: "There were many errors." It may be that he is referring to the delay between when he first applied for income assistance in September 2014 and when his application was approved in late October 2014, giving rise to his being in arrears in his rent, and to the treatment of the November lump sum CPP payment as unearned income, being deducted dollar for dollar from his January assistance, resulting in not being provided assistance for

that month. Thus it is unreasonable that the ministry did not take into account these factors in denying his request for a crisis supplement to cover his January 2015 rent.

Panel decision

The panel's decision is strictly limited to the outcome of the appellant's Request for Reconsideration regarding the denial of his request for a crisis supplement for January 2015 rent. The evidence is that the appellant was not eligible for income assistance for January 2015. As sections 59(1) and (2) of the EAR limit eligibility for a crisis supplement to a family unit eligible for income assistance or hardship assistance (and the appellant would not be eligible for the latter as the appellant is a single person with no dependent children) and only for the calendar month in which the request for the supplement is made, the panel finds that the ministry was reasonable in determining that under the legislation the appellant was not eligible for the requested crisis supplement.

Accordingly, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement for January 2015 rent was a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision.