

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "Ministry") January 15, 2015 reconsideration decision in which the Ministry denied the appellant a crisis supplement to purchase a bed and couch because her request did not meet all the requirements of section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, the Ministry determined that the crisis supplement was not required to meet an unexpected expense or that the item was unexpectedly needed, and that the appellant did not demonstrate that she was unable to meet the expense or obtain the item because she had no resources available and that failure to meet the expense or obtain the items would result in imminent danger to the physical health of the appellant.

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

PART E – Summary of Facts

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

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

- The appellant is a single person with no dependants receiving disability assistance of 41.42/month since October 2013. She lives in an assisted living facility costing \$731/month, paid directly by the ministry which covers meals, utilities, laundry and personal care, and includes \$100 /monthly deducted for back rent.
- She has received \$515 in crisis supplements within the last 12 months for clothing, shelter and food.
- A Crisis Supplement Request Form dated December 24, 2014 requesting a new bed and couch as she needed to get rid of her furniture because of bed bugs (from a visitor), "it is an emergency". She has gone to family and friends but does not know anyone who can help her with obtaining a bed. She quotes costs of \$795, and between \$750-\$800 from two furniture companies and \$300 to purchase on line.
- A "Note to Workers" from the appellant, dated December 29, 2014 requesting an emergency crisis supplement for a new bed because her bed had to be thrown out due to bed bugs, her home had to be fumigated and that she has tried to sleep on the floor with pillows but cannot because of her health conditions. She quotes bed prices of \$275 and \$299 (plus tax).
- A letter from the appellant's physician dated December 30, 2014 diagnosing back pain due osteoporosis and the need for a supportive bed mattress/box to help with discomfort.
- In her Request for Reconsideration, dated January 7, 2015, the appellant states that she was mistaken, that the bites were not from bed bugs but from spiders. She still needs a new bed, and refers to the doctor's note of December 30, 2014. She has a donated bed but it is too old, she wakes up with a sore back.
- The building manager said there was no bed bug problem and reported no disposal.

In her Notice of Appeal, dated January 28, 2015, the appellant states that she has unexpected spinal osteoporosis, referring to the doctor's note. The bed she has now is so old that the springs are starting to scratch her back. She does not have resources to buy a bed as she pays \$731/month with the extra going toward back rent. Sleeping on her current bed will result in a danger to her all round health.

At the hearing the appellant stated:

- She threw out her bed with the help of friends in a panic because she mistakenly thought it was infected with bed bugs and she also shampooed her carpet. She now realizes that was a mistake, "but that was then and this is now". She now sleeps on an old donated bed that is sagging and the springs stick out causing scratches on her back.
- Her doctor has prescribed a mineral supplement and a prescription medication due to her medical condition which was diagnosed a few months ago after she had broken bones. Her condition is likely to get worse.

- About the time of her PWD approval, she moved into an assisted living facility and had to provide her own furniture. She owes back rent and has to pay \$100/month to pay off the debt, which will not be paid off for several months leaving her \$190/month for all other expenses.
- She needs the bed now and can't afford one, she has contacted friends and relatives for help, the mattress topper suggested by the Ministry would not solve the sagging and spring problems. She has explored options but still needs a new bed. She said that the Ministry was mistaken she had requested either a bed or a hide –a-bed couch to sleep on not a separate couch as well as a bed.
- She is scheduled for knee replacement surgery. She needs a single bed, not the queen size one she has now, so she has more room in her apartment for therapy as she recovers from the operation.

The panel finds that the appellant's written statements in her Notice of Appeal and testimony presented at the hearing are in support of evidence before the Ministry at reconsideration as it is consistent with the information provided with her Request for a Crisis Supplement.

The panel therefore admits the statements as evidence under section 22(4) (b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue is whether the Ministry reconsideration decision to deny the appellant a crisis supplement to purchasing a bed and couch because she did not meet the requirements of section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) is reasonably supported by the evidence or is a reasonable application of the applicable legislation in the circumstances of the appellant. The Ministry determined that the crisis supplement was not required to meet an unexpected expense or that the item was 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 and that failure to meet the expense or obtain the items would result in imminent danger to the physical health of the appellant.

Applicable Legislation

The following legislation applies to the Appellant's circumstances in this appeal.

EARWD ACT

Disability assistance and supplements

- 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.

EAPWD Regulation

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, or
 - (ii) removal of a child under the *Child, Family and Community*

Services Act.

Appellant's Position

The appellant argues that she needs the crisis supplement to pay for a bed because she has been recently diagnosed with osteoporosis, sleeping on her old bed which is sagging with exposed springs scratches her back and is a danger to her all-round health, she has no money to buy a bed. She threw out her original bed in a panic when she thought it was infested with bed bugs, but later stated it was spiders bites. A mattress topper is not a good solution as it will not correct the sagging and adequately cover the springs.

Ministry Position

In its reconsideration decision, the Ministry considered section 57 of the EAPWDR as it applied to the Appellant's circumstances and determined that the Appellant did not meet all of the criteria for a crisis supplement specifically the Ministry argued that it was not unexpected as she threw out a bed without taking efforts to treat it or having a plan of replacement, that she has the resources to purchase a mattress topper to avoid discomfort and sleeping on the current bed will not result in imminent danger to her physical health. The ministry also held that her request for a couch is denied because the ministry does not assist with the purchase of couches as there is no imminent danger to physical health if a recipient does not have a couch.

The Panel Decision

Under section 57(1) of the EAPWDR, the Ministry may provide a crisis supplement to a person who is eligible for disability assistance, such as the appellant, if all of the applicable requirements in that regulation are satisfied. In this case, the Ministry denied the crisis supplement for a bed suggesting a mattress topper be purchased to relieve discomfort, and therefore she does not need a new bed. The appellant argued that a topper would not correct the sagging mattress and cover the springs adequately. She provided a credible explanation of the conflicting information between the building management's information to the ministry that no mattresses were disposed of during the period. The appellant explained that she was unaware that the building provided disposal so she had friends remove the mattress. That no bed bugs were in the building at that time was also explained in her testimony. She is apprehensive about bed bugs and admitted that she panicked and threw out the mattress acknowledging that she should not have done so. The panel agrees with the Ministry's position that she has the resources to purchase a mattress topper but disagrees that it will refurbish the old bed satisfactorily and therefore finds the appellant does need a new bed and she does not have the resources to purchase it. Taking into account the cost of a replacement bed and the appellant's limited income after accounting for her assisted living accommodation, the panel finds the ministry was not reasonable in determining that she has the resources to meet the immediate need for a bed.

As for the second requirement, that the supplement is needed to meet an unexpected expense or to obtain an item unexpectedly needed, the Panel finds that the Ministry reasonably concluded that it unlikely the mattress would be removed in a care facility without being seen. The appellant was not eligible for a crisis supplement because throwing out a bed when there was no need to do so without planning for a replacement does not cause an unexpected need as required by the legislation.

With respect to the third requirement for a crisis supplement set out in section 57 of the EAPWDR, the Panel finds that, other than her appeal statement that there was danger to her all round health, the appellant provided a doctor's note that a mattress was needed to help with discomfort. There is no evidence that failure to provide a bed would result in imminent danger to her physical health. Therefore, the panel finds the Ministry reasonably determined the Appellant also did not satisfy this requirement.

In summary, the panel finds that the appellant satisfied the lack of resources eligibility criteria but in order to be granted a crisis supplement she must meet all three of the criteria under section 57, she met only one, resources, but failed to meet unexpected need and imminent danger to health.

Having considered all of the evidence, the Panel finds that the Ministry's reconsideration decision that the appellant did not meet all the criteria for a crisis supplement was reasonably supported by the evidence and was a reasonable application of the applicable legislation in the appellant's circumstances.

Therefore, the Panel confirms the Ministry's reconsideration decision.