

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 May 13, 2015 that determined that the appellant was not eligible for a crisis supplement to purchase food because the appellant did not meet the requirements of section 59 of the Employment and Assistance Regulation (EAR). Specifically, the ministry found that:

1. the need for the item or expense is not unexpected;
2. there is insufficient evidence to support a probability of immediacy that failure to obtain the requested item will place the appellant’s and/or his children’s health in imminent danger; and
3. the requirement that there are no alternate resources to obtain the item has not been met.

PART D – Relevant Legislation

EAR section 59

PART E – Summary of Facts

The ministry was not in attendance at the hearing. After confirming that the ministry was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The documentary evidence before the ministry at reconsideration included the following:

1. An undated *Service Request Form* for the ministry in which the appellant explains that his kids keep getting sick which requires the appellant to buy over the counter medications which has put a strain on the appellant's finances.
2. The appellant's *Request for Reconsideration* dated May 12, 2015. The appellant states that whenever he requests assistance for food, the ministry tells him to find cheaper rent and access the free food in town but he says there is no cheaper suitable accommodation available and he already takes full advantage of the free food that is available in town.

Ministry records show that the appellant received \$60 food crisis supplements in October and November of 2014 and January, February, March and May of 2015. In addition he received crisis supplements for clothing for \$200 in October 2014, and \$100 in February and April of 2015 and \$100 in April 2015 for cleaning supplies.

The appellant's Notice of Appeal was signed and dated on May 19, 2015 and states that the reason for the appeal is that he was told by the ministry that he had already received funding for food for May but he states that that money was for the crisis supplement he applied for in April and which was granted following reconsideration.

At the hearing the appellant explained that he has been struggling financially since last October when he had a death in the family and had to travel to the funeral at a cost of \$1800. He is unable to work due to a broken kneecap. He has also had expensive repairs to his car (\$1200 for parts) and consequently has not been able to purchase decent food for himself and his children.

The appellant noted that the ministry has repeatedly advised him that he should seek cheaper accommodation and he insists that he has made every effort to do so. He stated that much of the rental accommodation in his home community has mold problems and since his younger daughter suffers from asthma he would not consider living in a place with mold. The appellant lives on the top floor of a house and he has 2 bedrooms. The rent is \$1000 per month and includes hydro and natural gas. He keeps an eye open for less expensive accommodation and has applied for city housing but nothing has become available. He has also requested the ministry provide funds to cover the cost of a move but has been denied.

The appellant requires the use of a vehicle with the associated costs because his children were unable to get placements in the local school and have to travel out of town to attend a school in a nearby community. Since there is no school bus service available the appellant drives his two daughters to school.

He is aware of and makes use of the local food banks and has even received the emergency hamper that is only available one time per year. He has grown a garden to save money on food and picks fruit (in season) as well.

His two kids have been sick for 2 months now and he blames the poor food they have been eating for this problem. They have had fevers and were vomiting in the night. His older daughter was in hospital for IV fluids and has had a persistent cough for 9 weeks. He has shared custody with his ex-wife of one of his daughters who will sometimes stay overnight at her mother's place but the appellant thinks that this contributes to her being exposed to colds, viruses and flu which she then brings back into the appellant's home. He has taken his daughters to see a doctor whenever they have been sick for a few days and has been advised to purchase over the counter medication such as Tylenol and Gravol. No prescription medications have been recommended by the doctor.

Additional evidence

Regarding the statements in the Notice of Appeal and oral testimony, the panel noted that the appellant provided additional information regarding his receipt of a crisis supplement in May, and his lack of resources due to the expenses he incurred for travel to a family funeral and car repair costs. In addition, he confirmed that he has been unable to find cheaper housing and he has accessed free sources of food. He also confirmed his daughters' illnesses with further details. The panel concluded that the appellant's submissions corroborate the information the ministry had at the reconsideration. Accordingly, the panel admitted them as submissions in support of the information and records that were before the ministry at the time the decision being appealed was made as per section 22(4)(b) of the Employment and Assistance Act.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible for a crisis supplement for food was because the appellant did not meet the requirements of sections 59 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that:

1. the need for the item or expense is not unexpected;
2. there is insufficient evidence to support a probability of immediacy that failure to obtain the requested item will place the appellant's and/or his children's health in imminent danger; and
3. the requirement that there are no alternate resources to obtain the item has not been met.

The relevant legislation is as follows:

From the EAR:

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.

Appellant's Position

At the hearing the appellant argued that the crisis supplement he received from the ministry on May 1, 2015 was for the month of April and should not have been used by the ministry to declare him to be ineligible for (a separate) crisis supplement for the month of May.

He explained that his finances are greatly constrained due to recent expenses relating to travel costs to a funeral and car repair costs. Accordingly, he has had to rely on out-of-date food and whatever he is able to get from local food banks. His kids have been sick for 2 months and he blames the poor food they have had to eat as a contributing factor in their illnesses.

The appellant argued that he has made every effort to secure suitable accommodation at a lower cost but has found nothing to be available. He also argued that he is aware of and takes full advantage of all opportunities for free food from local providers. He does not understand why the ministry has turned down his request for a crisis supplement when they approved it for all the other months.

Ministry Position.

The ministry notes the appellant's heavy reliance on crisis supplements and the high cost paid by the appellant for rent. Accordingly, while the ministry acknowledges that the appellant could not have anticipated that his children would require medications that the choices made by the appellant regarding choice of accommodation have limited his ability to manage financially. Consequently the need cannot be considered to be unexpected.

The ministry argues that there is insufficient evidence to support a probability of immediacy that failure to obtain the crisis supplement for food will place the appellant's health in danger. The ministry also notes that the appellant has not provided confirmation of the requirement or costs of the medications he has had to purchase for his children. Accordingly, the ministry concludes that the appellant has not met the requirement of imminent danger to health.

The ministry argues that the appellant has repeatedly been advised to seek less expensive accommodation but has chosen to not do so and continues to use his support funds to supplement his shelter costs. Accordingly, the ministry concludes that alternate resources are available to the appellant. And the ministry has determined that this criterion has not been met.

Panel Decision

The panel notes that the appellant has made frequent use of crisis grant applications for food over the past year. Moreover, the panel recognizes that the appellant reported that his finances have been sorely constrained since last October. Accordingly, the panel concludes that the need for the present application for a crisis grant for food is not unexpected. Consequently, the panel finds that the ministry reasonably determined that the appellant did not meet the requirement that the need for the crisis grant be unexpected in accordance with EAR section 59(1)(a).

The panel notes that the appellant submitted no medical documentation regarding any imminent danger to his or his children's health if a crisis supplement were not provided. Moreover, the treatment prescribed by the doctor to treat the appellant's daughters was over the counter medication. Accordingly, the panel finds that the ministry reasonably determined that there was insufficient evidence to support a claim of imminent danger to health and that this eligibility requirement under EAR section 59(1)(b)(i) was not met.

The panel appreciates that the ministry has for some time been urging the appellant to obtain cheaper accommodation but the ministry has provided no evidence that cheaper accommodations are available and the panel is satisfied that the appellant has therefore made reasonable, but ultimately unsuccessful efforts to find a cheaper place. The panel is satisfied that the appellant has made reasonable efforts to economize wherever possible on his expenses but these expenses continue to restrict what he is able to spend on food. Accordingly, the panel finds that the ministry was not reasonable in concluding that alternate resources were available to the appellant to meet his food cost requirements, and the criterion in EAR section 59(1) is therefore met.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's determination that the appellant has not met all of the requirements of section 59 of the EAR for the provision of a crisis supplement for food was a reasonable application of the legislation in the circumstances of the appellant.

The panel therefore confirms the ministry reconsideration decision.