

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision of May 26, 2015 in which the ministry denied a crisis supplement under Section 59 of the Employment and Assistance Regulation (EAR) for the purchase of a crib because the appellant did not meet all of the legislative criteria set out in EAR Section 59, specifically that:

- she did not require the supplement to meet an unexpected need; and
- she did not satisfy the minister that there were no alternate resources available to obtain the crib or meet the expense.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 59

## PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that she had been notified of the hearing more than two business days prior to the hearing date the panel proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR). A ministry observer attended.

The appellant is a single woman with 3 dependent children who has been in receipt of income assistance since 2013.

The information before the ministry at the time of reconsideration included the following:

- the appellant's request for reconsideration received by the ministry May 22, 2015 in which the appellant stated that she requires a crisis supplement for a crib because she did not find out that she was expecting a child until she was seven months' pregnant, and had no time to prepare and no supports; and
- there is a safety issue with her child tipping over in his current bed (bassinet).

In her Notice of Appeal dated June 3, 2015 the appellant states that there is imminent danger to her baby because [his sleeping arrangements] are unsafe and can hurt his health.

The ministry relied on the following facts in its reconsideration decision:

- on July 29, 2014 the appellant advised the ministry that she was pregnant. A natal supplement of \$45 was issued "from October 2014 to date";
- in September 2014 the appellant repaid a security deposit debt of \$100 to the ministry;
- in November 2014 the appellant repaid \$253.58 to the ministry for an overpayment of assistance;
- in January 2015 the ministry was informed that the appellant's children had not been residing with the appellant for approximately one and a half years, during which period the appellant received assistance of \$425.30 per month for which she was not eligible;
- on February 1, 2015 the appellant's children were returned to her care;
- in March 2015 the appellant received a provincial family bonus top up supplement of \$509.08;
- in April 2015 and May 2015 the appellant received family bonus top up supplements of \$322.33 per month;
- on May 4, 2015 the appellant requested a crisis supplement to purchase a crib because her baby had outgrown the bassinet in which he was sleeping. The appellant told the ministry that she had not known she was pregnant until she was six months along and stated that she did not receive a crib or other assistance from two charitable assistance organizations. The appellant also provided two estimates for the purchase of a crib.
- the ministry denied the appellant's request for a crisis supplement to purchase a crib.

At the hearing the ministry representative provided additional information concerning the appellant's circumstances:

- the appellant's baby, born in October 2014, was apprehended at birth and did not reside with the appellant until February 1, 2015;
- the appellant's two older children did not reside with the appellant for a period of approximately 18 months prior to their return to the appellant on February 1, 2015;
- the ministry was unaware that the children were not residing with the appellant for the periods noted above;

- the ministry is still processing the overpayment of assistance paid to the appellant during the 18 month period prior to February 1, 2015 for which she was not eligible, and has not yet requested repayment from the appellant;
- the appellant receives a monthly shelter allowance of \$700 plus a monthly support allowance of \$375.58. The appellant's monthly shelter costs (including electricity) total \$776.00, leaving a net monthly support of approximately \$300;
- the appellant currently receives additional federal and provincial child care benefits and top up supplements totaling approximately \$500 per month, for a total monthly assistance of \$800 excluding shelter costs.

The ministry representative also corrected a statement in the reconsideration decision that stated: "the natal supplement is intended to be used for general items required for a newborn child". Natal supplements are intended for the purchase of prenatal and postnatal food supplements, not general items required for a newborn child.

The panel finds that the oral evidence submitted by the ministry representative at the hearing is admissible under Employment and Assistance Act Section 22 (4) as evidence in support of the information before the ministry at reconsideration because it clarified the income received by the appellant during the period commencing 18 months prior to the children's return to reside with the appellant and the total income and benefits received by the appellant at the time of reconsideration.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of May 26, 2015 in which the ministry denied a crisis supplement under Section 59 of the Employment and Assistance Regulation (EAR) for the purchase of a crib because she did not meet all of the legislative criteria set out in EAR Section 59, specifically that:

- she did not require the supplement to meet an unexpected need; and
- she did not satisfy the minister that there were no alternate resources available to obtain the crib or meet the expense.

The relevant legislation is as follows:

### 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;

© 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;
- © water;
- (d) hydro.

The appellant argues that she did not realize that she was pregnant until she was seven months' pregnant, and that she has been unable to meet the expense of purchasing a crib, or obtain a crib from local charitable organizations. She also argues that her baby's physical health and safety is in imminent danger because he has overgrown his bassinet.

The ministry accepts that failure to obtain the crib will result in imminent danger to the baby's physical health because he has outgrown his bassinet. However, the ministry's position is that the other two criteria for a crisis supplement have not been met, because:

1. the appellant failed to demonstrate that the baby's need for a crib was not unexpected, as the baby was born in October 2014 and began to live with her on February 1, 2015;
2. the appellant failed to demonstrate that there were no alternate resources available to obtain the crib or meet the expense, for the following reasons:
  - the appellant was receiving overpayments of income assistance for which she was ineligible for two of her children for an 18 month period preceding February 1, 2015, when the children were not residing with her;
  - the appellant was receiving an overpayment of income assistance for which she was ineligible for her youngest child between his birth in October 2014 and February 1, 2015 when he began living with the appellant;
  - the appellant received family bonus top up supplements of \$509.08 in March 2015 and \$322.33 in April and May 2015;
  - at the time of reconsideration the appellant was receiving a monthly shelter allowance of

\$700 and income assistance of \$375.58, which after deducting \$775 in shelter costs left a net monthly income assistance of approximately \$300 plus approximately \$500 per month in federal and provincial child care benefits and top up supplements, for a total monthly income of approximately \$800 excluding shelter costs.

#### Panel Decision

To be eligible for a crisis supplement under EAR Section 59 a recipient of income assistance must demonstrate that:

1. the item is required to meet an unexpected expense or an item unexpectedly needed;
2. there are no resources available to the family unit to meet the expense or obtain the item; and
3. failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit, or removal of a child under child protection legislation.

The ministry accepts that failure to obtain a crib will result in imminent danger to the physical health of the baby because he has grown too large for his bassinet.

The panel finds that the ministry reasonably determined that the appellant failed to demonstrate that the crib was an unexpected expense or an item unexpectedly needed. In July or August 2014 she discovered that she was pregnant. In October 2014 she gave birth to her child, and on February 1, 2015 the four-month old child began to live with the appellant. His need for a crib within a short period of time was not unexpected.

The panel also finds that the ministry reasonably determined that appellant failed to demonstrate that she lacked the necessary resources to purchase the crib. Although she tried to get assistance from two charitable organizations, she failed to satisfy the ministry that she lacked the financial resources to purchase a crib, for the following reasons:

- a) she received overpayments of income assistance for which she was ineligible for two of her children for an 18 month period preceding February 1, 2015, when the children were not residing with her;
- b) she received an overpayment of income assistance for which she was ineligible for her youngest child between his birth in October 2014 and February 1, 2015 when he began living with the appellant;
- c) she received family bonus top up supplements of \$509.08 in March 2015 and \$322.33 in April and May 2015; and
- d) her monthly income at the time of reconsideration was approximately \$800 excluding shelter costs.

In conclusion the panel finds that the ministry's decision to deny a crisis supplement to the appellant because she failed to meet the eligibility criteria set out in EAR Section 59, specifically because she failed to demonstrate that the item was an unexpected expense and that she had no other resources available to purchase the item, was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.