

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated June 9, 2015, wherein the ministry denied the appellant a crisis supplement for home repairs. The basis for the ministry’s decision was that the appellant already receives the maximum allowable shelter allowance under Schedule A sections 4(2) and 5(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR); consequently, additional costs for home repair cannot be included in the amount of shelter allowance.

In addition, the appellant did not satisfy all three statutory criteria for a crisis supplement as set out in section 57 (1) of the Employment and Assistance Regulation. The ministry held that:

1. The expense was not unexpected; it is not unexpected that roof repairs will be required in an older home.
2. Failure to obtain the item would not result in imminent danger to health; there is insufficient evidence to support a probability of immediacy that that failure to obtain the requested item will place the appellant’s health in imminent danger.
3. It is not established that there are no alternate resources available; there is no indication that the appellant has attempted to seek alternate resources such as the Residential Assistance Program or a home equity loan.

PART D – Relevant Legislation

Schedule A sections 4 and 5, and section 57 of the EAPWDR.

PART E – Summary of Facts

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

- The appellant's Request for Reconsideration, dated June 9, 2015, which included the appellant's written submission;
- A quote from roofing company A dated March 6, 2015, for \$5,991.00
- A quote from roofing company B dated March 17, 2015, for \$ 8,990.00.
- A quote from roofing company C dated April 11, 2015, for \$9,611.00.

Assessment of the Evidence

Information in the Request for Reconsideration and the reconsideration decision indicated that:

- The appellant is a sole recipient of disability assistance.
- She receives \$946.42 monthly (\$531.42 for support, \$375 for shelter and \$40 diet allowance).
- The appellant's monthly shelter costs are \$613.40.
- On May 26, 2015 the appellant requested assistance with roof repair costs; she advised the ministry that her roof was very old and the leaks have been getting worse for some time.

In her reconsideration submission the appellant wrote that:

- Her roof is in bad shape and in danger of falling in.
- The water is coming through the light in her bedroom and this is very dangerous.
- She has been nursing her terminally ill husband for the last several years and home maintenance was not done because he was incapacitated. He passed away before the end of the year.
- Giving 24 hour nursing care to keep her husband at home was exhausting and she had no ability to deal with home maintenance issues.
- They had health expenses that prevented any savings.

In her Notice of Appeal dated June 18, 2015, the appellant wrote that:

- The situation has escalated and water is pouring in and going into the electrical receptacles.
- The Residential Assistance Program is no longer available.
- The MLA office informed the appellant that there are no grants available for structural issues.

At the hearing the advocate provided a written submission that included the following information:

- The appellant purchased her home in 1993.
- The mortgage is paid off.
- The appellant has been dealing with shock and grief and a significant drop in household income after her husband passed away in December 2014.
- The appellant made inquiries for assistance from friends and relatives but none was available.
- The appellant looked into government grants and found out that the federal program was discontinued and the provincial program does not cover structural issues like roofs.
- The appellant does not get a bank loan because she has no disposable income to repay a loan; her monthly budget of \$887.00 includes property taxes, house insurance, water, garbage, hydro, telephone, food, car insurance, gas [at the hearing the appellant clarified that "gas" was for her vehicle], pets and funeral home; her PWD monthly income is \$906.42 [the panel notes that the advocate did not include the appellant's \$40 diet allowance].

- Working with the lowest quote of \$5991 the appellant would be able to pay the balance of her roof replacement with the receipt of a crisis supplement.

At the hearing the appellant stated:

- When she purchased her home in 1993 she was told that the roof was fairly new and there should be no problems.
- Tarps were put on the roof 5 years ago and replaced 2 years ago. She believed the tarp would hold.
- The home sits on ½ acre in a rural area.
- She and her husband were living on the lower floor and did not notice the water leakage that occurred in the upper floor.
- They were isolated; her husband did not want any people to see his disability and did not permit any visitors.

In its oral testimony the ministry relied on its reconsideration decision and added the following information: The ministry has no funds at their disposal for fixing aging homes. Legislation has changed since 2002. Service clubs, churches and community resources could be approached for funds.

Admissibility of Additional Information

The panel admitted the appellant's appeal submission, the advocate's written submission, and the appellant's, advocate's and ministry's oral statements in accordance with section 22(4) of the *Employment and Assistance Act*, because this information is in support of the information and records that were before the ministry at reconsideration; specifically, these statements confirmed that the appellant's roof was in need of repair, and provided additional details on the appellant's financial circumstances and on attempts to obtain funds from alternate resources. The oral statements of the ministry representative substantially reiterated information that had been before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision dated June 9, 2015, wherein the ministry denied the appellant a crisis supplement for home repairs; the basis of the ministry's decision was that the appellant already receives the maximum allowable shelter allowance under Schedule A sections 4(2) and 5(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR); consequently, additional costs for home repair cannot be included in the amount of shelter allowance.

In addition, the ministry found that the appellant did not satisfy all three statutory criteria as set out in section 57(1) of the EAPWDR. The ministry held that:

1. The expense was not unexpected; it is not unexpected that roof repairs will be required in an older home.
2. Failure to obtain the item would not result in imminent danger to health; there is insufficient evidence to support a probability of immediacy that that failure to obtain the requested item will place the appellant's health in imminent danger.
3. It is not established that there are no alternate resources available; there is no indication that the appellant has attempted to seek alternate resources such as the Residential Assistance Program or a home equity loan etc.

The relevant legislation is as follows:

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 Service Act*.

...

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

...

(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;

...

(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.

* * *

Schedule A

Monthly shelter allowance

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(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

(a) the family unit's actual shelter costs, and

(b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

...

How actual shelter costs are calculated

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(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
- (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
- (e) utility costs;
- (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

...

Unexpected

The appellant argues that it was unexpected that her roof deteriorated so rapidly. The roof had been tarped for several years and there was no indication that the roof would deteriorate so fast. She and her husband were living on the lower floor and did not notice the water leakage that occurred in the upper floor, it came as a surprise.

The ministry's position is that pursuant to section 57(1)(a) of the EAPWDR the expense was not unexpected because it is not unexpected that roof repairs will be required in an older home. Although the appellant's situation is difficult, it is reasonable to expect that an old roof needs replacing due to

normal wear and tear. There are provisions for home repairs under Schedule A section 5(2) with specific limitations (\$375 per month in the appellant's case). It is not appropriate to utilize a crisis supplement to circumvent the limitations established under Schedule A section 5(2). The ministry argues that the intent of a crisis supplement is not to provide assistance or a supplement that is prohibited or limited by regulatory direction.

Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". While the appellant argues that her roof deteriorated faster than she had expected, she has provided no evidence as to why paying for roof repairs is an "unexpected expense". The panel finds that repairs for the appellant's roof are not unexpected as her roof is old and covered with tarps for the past 5 years. Therefore the panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for home repairs was "unexpected".

No Resources

The appellant's position is that she has no resources available because her PWD income only covers her living expenses, and, as she has no disposable income, she does not qualify for a bank loan. Ongoing health expenses prevented her from saving any money. She has made inquiries at her MLA's office but there are no government programs in place to assist her with roof repairs. She does not recall the ministry suggesting other resources like service clubs, churches and community resources. Because she lived in very isolated circumstances she had no outside contacts that could provide information on alternate resources.

The ministry argues that crisis supplements are not intended to circumvent the shelter allowance limits set out in Schedule A. It argues further that the appellant has not established that there are no alternate resources available to her; there is no indication that the appellant has attempted to seek alternate resources such as the Residential Assistance Program, a home equity loan or other resources.

Panel Decision

The panel finds that there is insufficient evidence that the appellant has exhausted all resources that were available to her. While the appellant reports she does not qualify for a bank loan due to lack of disposable income, she does not provide information or bank records on why she was refused a home equity loan on her mortgage free property. It is not clear how living in isolated circumstances prevented the appellant from inquiring about alternate resources like service clubs, churches and community resources.

Based on the foregoing, the panel finds that the ministry reasonably concluded that the appellant has not satisfied the legislative criterion that she has no resources available pursuant to section 57(1)(a) .

Imminent Danger to Physical Health

The appellant argues that her roof is a safety hazard and her health is in danger because the roof is about to fall in, and water is getting into electrical receptacles.

The minister's position is that while the appellant's situation is a difficult one there is insufficient evidence to support a probability of immediacy that pursuant to section 57(1)(b)(i) failure to obtain funds for roof repairs will place the appellant's health in imminent danger.

Panel Decision

In the panel's view the word "imminent" connotes a degree of immediacy that has not been demonstrated in the appellant's circumstances. There is no evidence that failure to obtain the requested crisis supplement will put the appellant's physical health in imminent danger. The panel notes that the appellant has not provided any information from a physician regarding imminent danger to physical health.

Accordingly, the panel finds that the ministry was reasonable in determining that the appellant has not satisfied the legislative criterion related to "imminent danger to physical health" in accordance with section 59(1)(b)(i).

Conclusion

Since the criteria in EAPWDR section 57 have not been satisfied, the panel finds that the ministry's decision to deny the appellant a crisis supplement for shelter was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.