

## PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development and Social Innovation (ministry) dated June 1 2015, in which the ministry denied his request for a crisis supplement for food on the basis that the appellant did not meet all the required criteria set out in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. Specifically, the ministry determined that:

- (a) the appellant did not require the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
- (b) the appellant did not establish that there were no resources available to him to meet the expense or obtain the item; and
- (c) the appellant did not establish that failure to meet the expense or obtain the item would result in imminent danger to his physical health.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)* section 57(1).

## PART E – Summary of Facts

The appellant did not attend the hearing. The panel received confirmation from the Tribunal that the appellant had been notified of the date, time and location of the hearing. Accordingly, under s. 86(b) of the *Employment Assistance Regulation*, the panel heard the appeal in the appellant's absence.

The evidence before the ministry at the time of the Reconsideration Decision included the appellant's Request for Reconsideration dated May 28, 2015 ("RFR").

The facts as set out in the Reconsideration Decision are as follows:

- The appellant receives monthly disability assistance of \$946.00 which is broken down as follows: \$531.42 for support, \$375.00 for shelter and \$40.00 for diet allowance. The appellant's monthly rent is \$550.00.
- On April 16, 2015 the appellant was issued a crisis supplement to purchase food as he had indicated that he had been ill and the specific items that he required were not available at the food bank.
- On May 13, 2015, the appellant requested another crisis supplement to purchase food because he had spent \$60.00 to replace his cell phone. The appellant indicated at that time that he did have some food at home but that the food bank did not have specific items he required.

The RFR states, "Poor blood glucose control. Would benefit from nutritional supplement to reduce carbohydrate intake. Needs glucema, one can daily." As indicated in the appellant's Notice of Appeal, this was written and signed by physician and dated May 25, 2015.

At the hearing, the ministry stated that the appellant had requested a crisis supplement for food but was denied as the criteria under the *EAPWDR* had not been met. The ministry confirmed that at the time of the request, the appellant indicated that he had food at home but that he was short specific items due to the purchase of a new phone and that the items were not available at his local food bank.

In response to questions, the ministry stated that when deciding whether an expense is "unexpected," the ministry looks at whether the expense is one that occurs on a regular basis or if an unexpected event occurred that would result in the expense also being unexpected. An example of an unexpected event may be a fire or flood.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement to purchase food on the basis that he did not meet the criteria set out in section 57(1) of the *EAPWDR* was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

The criteria to be applied by the ministry on a request for a crisis supplement are set out in section 57(1) of the *EAPWDR* as follows, emphasized by the panel:

- (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 ...

### Positions of the Parties

In his Notice of Appeal which is dated June 10, 2015, the appellant writes as follows:

- The purchase of the cellphone for \$60.00 was an unexpected expense because the appellant's previous phone malfunctioned;
- "Poor blood glucose control" as quoted by a doctor in the RFR;
- Extra funds needed beyond normal nutritional needs;
- Inability to find housing at less than \$550 per month strains the appellant's budget therefore he faces a lack of resources to purchase needed food;
- The appellant requires additional proteins that his \$40 monthly diet allowance is insufficient for given the shortfall created by the unexpected need to purchase the cellphone and an inability to find housing that meets the \$375 monthly shelter allowance;
- Having a functioning phone allows the appellant to access medical assistance in diabetic emergencies; and
- Adequate housing vacancies at \$375 per month are extremely limited.

The ministry argues that for a crisis supplement to be issued, the appellant must satisfy each of the criteria as set out in section 57 of the *EAPWDR* and that in this case, the appellant has not done so. The ministry argues that food is not an unexpected expense or an item unexpectedly needed, that there is no evidence that failure to meet the expense or obtain the item would result in imminent danger to the appellant's health and that the appellant's monthly support is intended for the purchase of day to day items such as food and that further, there are food banks that the appellant can access and as such there were resources available to him. These criteria will be considered in greater detail below.

### Analysis

In order to receive a crisis supplement under section 57 of the *EAPWDR*, an applicant must meet all three of the criteria set out in subs. 57(1) – if the applicant does not meet any of the three criteria, the crisis supplement will not be provided.

### Unexpected Expense or Item Unexpectedly Needed

Section 57(1)(a) of the *EAPWDR* provides in part that the minister may provide a crisis supplement to a family unit that is eligible for disability or hardship assistance if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.

In the present case, the appellant applied for the crisis supplement to purchase food because he had spent \$60 to replace his cellphone. He argues that the replacement of his cellphone constituted an unexpected expense. While the need to replace his cellphone may have been unexpected, the request by the appellant was for a crisis supplement to purchase food which, as argued by the ministry, is not an unexpected expense or an item unexpectedly needed. The panel finds the ministry's determination that food is not an unexpected expense or an item unexpectedly needed was reasonable.

### **No Resources Available to Meet the Expense or Obtain the Item**

Section 57(1)(a) of the *EAPWDR* provides that an applicant must satisfy the minister that when requesting a crisis supplement, he or she is unable to meet the expense or obtain the item because there are no resources available to the family unit.

In the present case the appellant received monthly disability assistance which included an amount for support which is intended to pay for day to day items including food, as well as an additional amount for a diet allowance. Further, the evidence indicates that the appellant had access to a foodbank as he advised the ministry at the time he applied for the crisis supplement that he had food at home but the specific items he wanted were not available at the foodbank. Given that the appellant was in receipt of disability assistance and as he had access to a foodbank, the panel finds that the ministry's decision that the appellant failed to demonstrate that he had no resources available to purchase food was reasonable.

### **Imminent Danger to Physical Health**

Section 57(1)(b)(i) of the *EAPWDR* provides that the minister must consider whether 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.

In the present case, the physician who completed the RFR noted that the appellant experienced poor blood glucose control, that he would benefit from a nutritional supplement to reduce carbohydrate intake and that he needs one can of glucema daily. While this advice does indicate that the appellant would benefit from a nutritional supplement, it does not suggest that the appellant faced imminent danger to health should he fail to obtain the food that is the subject of the crisis supplement request. The panel finds that the ministry's determination that failure by the appellant to meet the expense or obtain the item would not result in imminent danger to the appellant's physical health was reasonable.

### **Conclusion**

The panel finds that the ministry's determination that the appellant did not meet each of the requirements of section 57(1) of the *EAPWDR* was a reasonable application of the applicable enactment in the circumstances of the appellant and the panel therefore confirms the ministry's Reconsideration Decision.