

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of July 31, 2015 wherein the ministry denied the appellant a crisis supplement for a fridge because the appellant did not meet all the criteria set out in section 57(1) Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Further, that the ministry cannot include a fridge when calculating the actual shelter costs to a place of residence owned by the recipient because Schedule A section 5(2)(f) EAPWDR only applies to those essential items of protection, replacement and/or repair that are part of the physical structure of a recipient’s home.

## PART D – Relevant Legislation

EAPWDR - section 57, Schedule A section 5(2)

## PART E – Summary of Facts

The appellant did not attend the hearing; the panel being satisfied that the appellant was notified of the date, time and place of the hearing, the hearing proceeded under section 86(b) Employment and Assistance Act (EAA).

The evidence before the ministry at the time of reconsideration:

- An estimate for a fridge from an appliance sales & repair company dated July 13, 2015;
- Invoice dated July 13, 2015 from an appliance sales & repair company for a service call. A note on invoice states that the fridge needs to be replaced.
- A note received by the ministry on July 10, 2015 from appellant stating, "My fridge has stopped working which is very bad in this hot weather. I'm supposed to be getting my pension and have been without any money for two weeks. Because of that I'm in debt of \$150 which I borrowed in order to survive. My family and friends can't help me as I already asked."
- Request for Reconsideration dated July 19, 2015. Under Reason for Request, the appellant stated, "Not to supply fridge in this weather borders on criminality. Being elderly I depend on the fridge. Being for cooling down (ice cubes in the sock and wrapping around my head) and storing the food as everything spoils rather quickly and being on limited income is the only way to survive. I hope I'll survive this heat."

The appellant is a single recipient of disability assistance. In July 2015 the appellant received assistance totaling \$906.42 consisting of \$531.42 for support and \$375 for shelter (rent) allowance. The appellant also received \$182.66 from Canada Pension (CPP) benefits which was deducted from his disability assistance. On July 10, 2015 the appellant submitted a hand written note to the ministry advising his fridge had quit working. The appellant advised he was waiting to receive pension funds from OAS (Old Age Security) and GIS (Guaranteed Income Supplement) but these were pending confirmation of his landed immigrant date. The appellant stated he has been without money for two weeks and had to borrow \$150 just to survive. The ministry advised the appellant to get two quotes for the repairs and to also provide estimates for the replacement of your refrigerator. On July 13<sup>th</sup>, 2015 the appellant submitted a business card from an appliance repair company indicating a service call is \$75.00. The appellant contacted the appliance repair company who advised they would repair the refrigerator and provide an invoice. On July 14 2015 the appellant submitted an invoice in the amount of \$78.70 for the service call and on the invoice it was noted that the refrigerator needed to be replaced. The repair company also provided the appellant with an estimate of \$494.40 to replace the fridge.

At the hearing the ministry stated that an applicant's (recipient) file is usually closed when a person reaches 65 years of age because their income exceeds the income threshold for disability assistance. For example, at the present time the appellant receives \$906.42 in disability assistance (\$375 shelter allowance and \$531.42 support allowance) and if he receives CPP, OAS and GIS his income will exceed the income threshold (\$931.42) and he will not be eligible to receive disability assistance. In this instance, the appellant was only receiving CPP (\$182.66) which is deducted from his disability assistance (support allowance) in compliance with Schedule B section 1(d) EAPWDR legislation. The ministry also stated there was no explanation why the appellant was not receiving his OAS unless he was late in making his application for that pension or he had not applied for it at the time he applied for the crisis supplement. The ministry stated that an internet search for a fridge found two fridges being advertised for sale, the first for \$110.00 and the second for \$95.00 but without further information from the appellant no determination could be made. Also the ministry stated they had no information on file that the appellant had tried to access local service groups for assistance in locating a replacement fridge. The panel finds the ministry's information is admissible as the information supports the information and record that was before the ministry at the time of reconsideration and is admissible under Section 22(4) EAA.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of July 31, 2015 wherein the ministry denied the appellant a crisis supplement for a fridge because the appellant did not meet all the criteria set out in section 57(1) EAPWDR.

Further, that the ministry cannot include a fridge when calculating the actual shelter costs to a place of residence owned by the recipient because Schedule A section 5(2)(f) EAPWDR only applies to those essential items of protection, replacement and/or repair that are part of the physical structure of a recipient's home.

The legislation considered: EAPWDR

### Crisis supplement

#### Section 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*.

### How actual shelter costs are calculated

#### Section 5

(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 expense or an item needed unexpectedly:

The ministry's position is that the appellant does not meet the legislated criteria under section 57 for a crisis supplement for an unexpected expense. The ministry maintains that maintenance, repairs and replacement of appliances are not considered an unexpected expense as appliances need to be repaired or replaced from time to time. The ministry argued that the appellant could have purchased non-perishable food items rather than put them in a fridge.

The appellant's position is that he needs a fridge and it just quit unexpectedly and he did not have any money to replace it.

### Decision:

The evidence before the panel is that the fridge just "stopped working". The panel finds that it is not reasonable to expect that an appliance will continue to operate forever and not need to be repaired or replaced at some point in time. The panel accepts the ministry's position and finds that maintenance, repair and replacement of appliances should not be considered an unexpected expense even though, in this case, there was no warning that the appliance was in need of repair.

The panel finds that the ministry's decision that the replacement of appellant's fridge should not be considered an unexpected expense was reasonable.

**Alternate Resources:**

The ministry's position is that the appellant failed to demonstrate that he did not have alternate resources to obtain a fridge. The ministry argued that in the appellant's Request for Reconsideration he stated that he was waiting for pension funds from OAS and GIS and that he had not provided confirmation of all the community resources he had accessed. The ministry argued that the appellant was issued in July 2015 disability assistance of \$906.42 (shelter and support) minus the \$182.66 that he received for CPP, the appellant borrowed \$150.00 from a friend, and in addition he was waiting for further funding from OAS and GIS. The ministry's position is that the support allowance the appellant received is to be used for day to day items including small appliance repair or replacement and the ministry does not have sufficient information to confirm that the appellant is incapable of budgeting, on a gradual basis, for the item. The ministry also argued that a search of the local community found two fridges for sale – one for \$95 and the other for \$110. Also the appellant did not provide any information that he had inquired with local service groups and agencies to see if they would provide him with a fridge.

The appellant's position is that he had had no money for the last two weeks and had to borrow \$150.00 from a friend just to survive.

**Decision:**

The panel finds the evidence supports that the appellant may have had alternate resources without waiting for his OAS pension and GIS funds to arrive and there was no evidence before the panel that the appellant had exhausted all community resources available. Also there was no evidence before the panel that the appellant was not capable of budgeting for the item he required (fridge) on a gradual basis.

The panel finds the ministry's decision that there was insufficient evidence to confirm that the appellant was not capable of budgeting for a fridge on a gradual basis was reasonable.

**Imminent Danger to Physical Health:**

The ministry's position is that the appellant is a single recipient of disability assistance and the ministry considers that failure to provide a fridge to the appellant will not result in imminent danger to the appellant's physical health.

The appellant's position is that he needs the fridge to keep his food cold and safe because it quickly spoils in the heat. The appellant also argues that he is elderly, on a limited income and in the heat he depends on the fridge to make ice which he uses for cooling himself down. He argues that he needs the fridge to survive.

The panel finds there is no evidence, medical or otherwise, to support that the appellant's physical health would be in imminent danger if the ministry did not provide him with a crisis supplement to obtain a fridge. The ministry's decision not to provide the appellant with a crisis supplement, on this basis, was reasonable.

**Maintenance and Repairs for the family unit's place of residence:**

The ministry's position is that Schedule A, section 5(2)(f) EAPWDR only applies to the actual cost of maintenance and repairs of a home and to those essential items of protection, replacement and repair that are part of the physical structure of a recipient's home and not the replacement of appliances.

The appellant did not express an opinion on this legislation other than to state that he needs a fridge to keep his food from spoiling in the heat. .

**Decision:**

The panel finds the appellant's fridge is not part of the physical structure of his home. The panel also finds the appellant is receiving the maximum amount of shelter allowance allowed under Schedule A, section 4 EAPWDR and the ministry has no discretion to increase the amount of shelter allowance payable.

The panel finds the ministry's decision not to include the cost of replacing the appellant's fridge as part of the calculation of his shelter costs under Schedule A section 5(2)(f) EAPWDR because a fridge is not considered part of the cost of maintenance and repair for his place of residence was reasonable.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement because he did not meet all the criteria set out in section 57 EAPWDR and that coverage as a shelter allowance is limited to the maximum monthly rate is a reasonable application of the legislation and is supported by the evidence.

**The panel confirms the ministry's decision under section 24(1)(a) and 24 (2)(a) EAA.**