

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision dated August 11, 2015 which held that the appellant was not eligible for a crisis supplement to purchase furniture, specifically a bed, as he has not met all three of the required eligibility criteria under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the Ministry determined that :

- the supplement was not required to meet an unexpected need;
- alternate resources were available;
- the information was insufficient to establish failure to obtain the items would result in imminent danger to health.

## PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57*

## PART E – Summary of Facts

The Ministry was not in attendance at the hearing. After confirming that the Ministry was notified of the hearing, the hearing proceeded in accordance with s86(b) of the *Employment and Assistance Regulation*.

The appellant has been designated as a Person with Disabilities and in a two person family unit. The appellant requested a crisis supplement to purchase a new bed as the one he has been given is old and too soft and his back has begun to hurt. On July 6, 2015 the Ministry denied the appellant's request as he did not meet the required criteria. On July 29, 2015 the appellant submitted a request for reconsideration.

The evidence before the Ministry at the time of reconsideration included the following:

1) The appellant's Request for Reconsideration (RFR) dated July 29, 2015 in which the appellant states:

- the bed he received from a charitable organization was not a new bed. It was an old bed that was well used and so soft you can feel the springs and boards when laying on it;
- he is awaiting surgery on his neck and has arthritis in his back;
- both he and his partner wake up in terrible pain from the lack of support provided by the bed.

2) A note from a doctor dated July 28, 2015 which states that the appellant is requesting a quality bed because of posterolateral disc herniation on the right (lumbar region unreadable) and posterolateral disc herniation on the left side (L 3-9).

The appellant's file was re-opened on December 27, 2012. The appellant and his spouse receive monthly disability assistance of \$1,647.42. They receive \$949.06 support, \$533.36 shelter and \$165.00 for a monthly nutritional supplement. On July 6, 2015 the appellant stated that he received his current bed 3 months before, but it is too old and soft and he is on a waitlist for another bed.

In the appellant's Notice of Appeal (NOA) dated August 20, 2015 he states that the bed he received was too used and he cannot sleep on it due to increasing pain.

With the NOA, the appellant submitted:

- 1) A letter from a charitable organization dated August 19, 2015 stating that three months ago they donated a used double bed to the appellant and his common law partner. The organization had no idea that the bed was in such bad shape and it needed to be thrown out. They are sorry for the inconvenience, but they have no other beds for donation.
- 2) A note from a doctor dated August 18, 2015 which states that the appellant is not fit for work due to disc herniation in (his) back and he needs a supportive bed or he will suffer. This is an imminent danger to his health.
- 3) A note from a doctor dated August 18, 2015 which states that the appellant's common law partner is needing a new bed due to severe back pain and imminent danger to health if (she) doesn't get a bed.

The appellant's evidence at the hearing included the following information:

- The old bed belonging to the appellant and his common law partner was too short and dipping in the middle so they asked the community agency for a bed. When they got the bed, they gave their old bed away. They expected that the community agency would have checked out the condition of the bed before giving it to them.
- They are continuing to use the bed because they do not have a couch to sleep on and the floor is too hard.
- The community agency does not have a budget to provide new beds and they do not anticipate getting in any used beds to donate to clients.
- They have exhausted all other community agencies that might supply a bed.
- The appellant and his common law partner could afford to save \$50.00 a month for a bed, but it would take them a year to have enough to buy a new bed and they need the bed now because of their medical conditions.
- Their current rent is \$533.36 and they receive \$969.06 support that helps pay for their phone.
- They asked to buy a new bed on credit at a local furniture store, but were turned down.
- The appellant's common law partner stated that she has increased the use of morphine because of the pain resulting from the bed's lack of support.
- They have checked into getting a medical bed, but the wait is too long to get into the physiotherapist to start the process.
- The appellant and his common law partner see their doctor once a week at a regular time because of their medical conditions and the resulting pain.

The appellant's oral testimony, doctor's notes and charity letters substantiated the information at reconsideration and were therefore admitted as evidence in support of the information and records before the ministry at reconsideration and in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel relied on the information from the reconsideration decision as the Ministry submission.

## PART F – Reasons for Panel Decision

The issue to be determined at appeal is whether the Ministry's August 11, 2015 reconsideration decision which found the appellant was not eligible for a crisis supplement to purchase a bed as he had not met all three of the required eligibility criteria under Section 57 of the (EAPWDR) was reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances.

The following legislation applies to this appeal:

### 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*.
- (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, and
  - (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 disability 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.
- (BC Reg. 13/2003)

The appellant argued that he and his common law partner received a bed from a community agency because they needed a bed that was longer and would provide more support than the one they had been sleeping on. They both have medical issues that require a supportive bed in order for them to get a good night's sleep. They expected that they would receive a bed that was in better condition than the one they gave away. The bed they received was old and worn out. The community agency apologized and said that they should have thrown it out rather than have given it to the appellant.

The appellant argued that he has exhausted all of the agencies in his community that might provide a bed. He and his common law partner need a new bed, not a used bed because of their medical conditions that are made worse by a bed without support. He argued that a donated bed will always be well used. They currently do not have the resources to purchase a bed and have been denied credit to purchase a new bed.

The appellant stated that if he and his common law partner do not get a new bed, they will face imminent danger to their health and this is supported by the notes obtained from their doctor.

The Ministry's position is the appellant has not verified that the unexpected need for a bed exists because he currently has a bed, is using it and is on a waitlist for another bed from the community agency.

The Ministry further states that although the appellant has indicated he has issues with his back and has provided a doctor's note to substantiate that, there is nothing to suggest that failure to obtain the bed will result in an imminent danger to his health.

The Ministry argues that the appellant has shown that there are other resources available to meet his need because he currently has a bed that he received three months ago and he is on a wait list for a new bed.

#### *Panel Decision*

Under Section 57 of the EAPWDR, a crisis supplement may be provided if all three of the following criteria are met:

- 1) the need for the item or expense is unexpected;
- 2) there are no resources available to pay for the expense;
- 3) failure to meet the expense will result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Services Act*.

The appellant had received a bed from the community agency and he expected that it would be in good condition and better than the bed he had given away. The community agency has apologized and stated that the bed should have been thrown out rather than given to the appellant. Since the appellant had procured a bed from the agency with the expectation that it would be in good condition and meet his needs, the panel finds that the Ministry was not reasonable to find that the need for a new bed was not unexpected.

The appellant stated that he has exhausted all of the community agencies and none of them can assist him in getting a new bed. He has tried to buy a new bed on credit, but has been turned down. He and his common law partner agreed that they could afford to save \$50.00 a month for a new bed,

but this would take too long as they need a new bed now so that their medical conditions do not get worse. They are continuing to use the donated bed. Currently they are not exceeding their shelter allowance from the Ministry and they are receiving \$969.06 a month for support, some of which is used to pay for their phone. It is unclear what other expenses the appellant and his common law partner have as there was no evidence provided to show monthly expenses.

The panel finds that there is inadequate evidence to determine that the appellant has exhausted all resources available to him and his common law partner. In light of this, the panel finds that the Ministry reasonably determined that there are alternate resources available to meet the expense.

The appellant stated that his health and that of his common law partner is in imminent danger if a new bed is not provided. He has submitted two notes from his doctor in support of this statement. The appellant's common law partner has stated that she is now taking increasing amounts of morphine to deal with the increased pain as a result of the poor support provided by the bed. The appellant has complained of increased back problems.

The panel finds that the doctor's notes submitted with the Notice of Hearing support the appellant's statement that his health is in imminent danger if a new bed is not provided and the Ministry was not reasonable in determining that there was no imminent danger to physical health.

The panel finds that the Ministry reasonably determined that the appellant has failed to meet all three criteria of section 57 of the EAPWDR.

Therefore, the panel finds that the Ministry's decision that the appellant is not eligible for a crisis supplement to purchase a bed under section 57 of the EAPWDR was a reasonable application of the legislation in the appellant's circumstances and confirms the decision.

The appellant is not successful in his appeal.