

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 6 October 2015 determined that the appellant was not eligible for a crisis supplement for couches and dressers because the appellant did not meet two of the three the criteria set out in s. 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry determined that the appellant had alternate resources available and that failure to obtain dressers and couch will not result in imminent danger to the physical health of the appellant.

However the ministry was satisfied that the appellant's request for 3 beds met s. 57 (1) of the EAPWDR criteria in that there was an unexpected need to replace the beds, that the appellant did not have the resources available to meet the expense and that there was imminent danger to the physical health of the family unit.

PART D – Relevant Legislation

EAPWDR, s. 57.

## PART E – Summary of Facts

The appellant was not in attendance at the hearing and his designated representative indicated that his medical condition prevented him from appearing and that she was mandated to testify and argue the appeal on his behalf. The appellant had signed a Release of Information in favour of his representative on 21 October 2015.

The following relevant evidence was before the ministry at the time of reconsideration:

- The appellant is a recipient of persons with disabilities (PWD) benefits for himself, his spouse and 2 dependent children. The family unit's monthly amount of disability assistance is \$1,699.56.
- The appellant was the victim of a severe bedbug infestation in his residence that was treated on 29 July 2015 and all the beds, couch and dresser had to be destroyed.
- A 1-page document from a pest control company indicating that the appellant's residence is to be treated for bedbug infestation on 29 July 2015.
- On 30 July 2015 the appellant applied for a crisis supplement for furniture: 1 double bed, 3 single beds and one queen bed as well as dresser and couch.
- On 14 August 2015 the appellant contacted the ministry and specified that the request was not only for beds but also for dressers, stating that the children had captain beds that had to be destroyed and as a result they and the appellant needed dressers and beds. The ministry advised the appellant to submit 2 quotes.
- 2 quotes dated 18 August 2015 for 2 single mattresses, 2 single box spring, 2 single frame captain style, 1 queen mattress, box spring and frame for a total of just over \$2,600 and \$2,500 respectively.
- With his Request for Reconsideration dated 22 September 2015, the appellant indicated in a letter that:
  - His family unit faced a severe bedbug infestation that was treated but due to the extreme nature of the infestation the beds and the couch the children had slept on had to be destroyed.
  - Shortly after, the appellant was admitted to hospital for serious medical issues.
  - The appellant's 19 year old son is not considered as a dependent and not covered in the family unit while the 2 other children are.
  - The appellant applied for funding for dressers because the 2 children had captain beds that were destroyed and were used as dressers but the ministry told the appellant that usually dressers and couches were not covered.
  - The appellant and his family unit had to move to another town as a result of his medical condition requiring long-term care.
  - On 20 August 2015 the appellant contacted the ministry and the worker indicated they had talked to a community organization and the appellant could contact them for assistance after the move.
  - On or about 8 September 2015, the appellant contacted the community organization and was told they did not provide beds or furniture help and that she could not locate anyone in her office that had talked to a ministry worker.
  - Since arriving in their new community on 3 September 2015, the appellant was able to acquire a single box spring and mattress that was well used and not suitable for long term as well as a dresser and a couch.
  - The appellant suffered hardship because since he was released from hospital he needed a

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good bed to recover but ended up having to sleep on the floor, which was a threat to his safety.

- The bedbug infestation was completely unexpected as well as the fact that they had to destroy the beds and couch.
- The appellant's family unit has no resources available to cover those expenses due to the appellant's medical issues and out of town medical travel.

On 2 October 2015 after reconsideration the ministry provided a \$509 moving supplement.

In his Notice of Appeal dated 21 October 2015, the appellant stated he was approved for "2 single bed sets, mattress / frames and box springs and a queen set mattress frame and box springs" but was issued \$383.85 to cover this expense and it was impossible to make the purchase approved based on that amount.

At the hearing the appellant's spouse and representative testified that after 3 months of being without beds, the ministry requested new quotes for the beds as a result of the reconsideration decision and that she provided quotes dated 8 October 2015 from 2 businesses for just over \$2,580 and \$2,700 respectively. She testified that the moving supplement was delayed because the ministry initially denied the request but ended up approving it as a crisis supplement at reconsideration. She stated that her children were still sleeping on the floor and that her ill husband had been sleeping on the floor for months despite his poor medical condition.

The ministry indicated that they did not have the information on file about the amount the appellant was eligible for and that it was only when a cheque was requested to be issued that the system would show whether the family unit had reached the annual maximum crisis supplement.

The panel determined that the additional oral evidence was admissible under s. 22 (4) of the Employment and Assistance Act (EAA) as it was in support of the records before the minister at reconsideration and corroborated the evidence as to how the events unfolded.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a crisis supplement for couches and dressers because the appellant did not meet two of the three the criteria set out in s. 57(1) of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that the appellant had alternate resources available and that failure to obtain dressers and couch will not result in imminent danger to the physical health of the appellant.

However the ministry was satisfied that the appellant's request for 3 beds met s. 57 (1) of the EAPWDR criteria in that there was an unexpected need to replace the beds, that the appellant did not have the resources available to meet the expense and that there was imminent danger to the physical health of the family unit.

In order to receive a crisis supplement under s. 57 of the EAPWDR, an applicant must meet all three of the criteria set out in subsection 57(1) – if the applicant does not meet one of the three criteria, the crisis supplement will not be provided. Section 57 of the EAPWDR provides as follows:

**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 ...

S. 17 of the EAA determines the reconsideration and appeal rights as follows:

**17 (1)** Subject to section 18, a person may request the minister to reconsider any of the following decisions made under this Act:

(a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit;

(b) a decision that results in a discontinuance of income assistance or a supplement provided to or for someone in the person's family unit;

(c) a decision that results in a reduction of income assistance or a supplement provided to or for someone in the person's family unit;

(d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of

(i) the maximum amount of the supplement under the regulations, and

(ii) the cost of the least expensive and appropriate manner of providing the supplement;

(e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*]...

(3) Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 18 and 27 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.

(4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in this Act and the regulations.

Section 17 EAA limits the type of decisions that a dissatisfied person can ask to be reconsidered and

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the type of reconsideration decisions that can be appealed. As per s. 17(1)(b), a decision that results in a refusal to provide a supplement can be the subject of a request for reconsideration and if the person is dissatisfied with the outcome of that reconsideration, the decision can be appealed to the Tribunal.

In this matter, the reconsideration decision approved the crisis supplement for 3 beds but denied a crisis supplement for the dressers and couches. As the decision regarding the crisis supplement for the beds is not a denial, it is not before the panel as the Tribunal has no jurisdiction to hear this matter

The appellant's arguments and dissatisfaction is in regards to the ministry decision which allowed only \$383.85 to cover the purchase of the 3 beds. She argued that it was impossible to purchase 3 beds given the lowest quotes she had presented to the ministry and the family unit's financial situation. She argued that her moving supplement should not have been taken from their annual crisis supplement eligibility maximum, that it unfairly reduced the crisis supplement they would otherwise have been eligible for and that it had happened as a result of the ministry mishandling their family unit's file. However, the reconsideration before the panel does not address the amount granted by the ministry for the crisis grant and, as stated, as the supplement was not denied, the issue is not before the panel at appeal. The panel does note however, section 17(1) (d) allows a person to request a reconsideration of a decision in respect of the amount of a supplement provided if that amount is less than the maximum amount of the supplement under the regulations.

The issue before the panel is the denial of a crisis supplement for a couch and dresser. At the hearing the appellant admitted that the ministry's decision was reasonable and that was not the purpose of this appeal. The evidence shows that the children's beds had captain frames that included storage space like a dresser and were destroyed as part of the bedbug infestation control process. Further, when the appellant's spouse was informed that the ministry could not cover dressers and couches as a crisis supplement, the appellant indicated they had found a dresser and couch from another source.

The ministry argued they do not provide assistance for non-essentials such as couches and dressers, that resources were found to obtain these objects and that failure to provide will not result in imminent danger to the physical health to any member of the family unit.

The panel finds no evidence that the absence of a dresser and a couch would result in imminent danger to the physical health of any person in the family unit and that the family unit had resources available as they obtained the requested items. Consequently, the panel finds the ministry decision to deny a crisis supplement for a dresser and couch was reasonably supported by the evidence as the criteria of s. 57 (1) of the EAPWDR were not met and confirms the decision.