

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated November 20, 2015 which held that the appellant was not eligible for a crisis supplement to replace his comforter because the criteria set out under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met. Specifically,

- The minister was not satisfied that the need to replace the comforter was an unexpected expense and that there were no resources available to purchase a comforter, as required under paragraph (a); and
- The minister was not satisfied that failure to obtain the requested item would result in imminent danger to the appellant's health as required under paragraph (b).

PART D – Relevant Legislation

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

PART E – Summary of Facts

The ministry's information at reconsideration is that on November 2, 2015, the appellant called and requested a crisis supplement for a comforter because the comforter was falling apart after multiple washings due to bed bug treatments. The appellant's request was denied. The ministry indicates that the appellant receives a total of \$1,111.42 in monthly assistance from the ministry, comprised of disability assistance (\$531.42 support, \$375.00 shelter) and nutritional supplements (\$205.00) and that his shelter costs are \$604.00 (\$574.00 plus \$30.00).

In his Request for Reconsideration dated November 30, 2015, the appellant writes that it was unexpected to get bed bugs. A community organization he accessed was, and is, short of winter or heavy bedding and gives top priority to the homeless and children. As he uses \$260.00 of his support allowance to pay rent, he has no resources available. He has sleep apnea, COPD Stage III, low heart output, and seizures due to lack of oxygen and blood. His body must maintain its temperature, especially while sleeping to ensure his body does not waste functions to maintain body heat.

In his December 12, 2015 Notice of Appeal submission and his January 12, 2016 written appeal submission, the appellant provides the following information. The comforter was 1.5 years old and was destroyed when all inner material jumbled into a ball after constant washing due to bed bug treatment. The ministry knows about the bed bugs as it provided mattress and box spring covers sometime in 2014 and a replacement cover in 2015. His health is deteriorating rapidly due to a progressive disease. He receives \$906 disability assistance and \$205 monthly for nutritional supplements - Boost and vitamins due to massive weight loss and major muscle deterioration. His rent is \$574, plus \$35 for hydro and \$25 for phone costs, leaving him with \$274 for food, toiletries and other basic living items. The average rent for a bachelor apartment in his community is \$510.

Also included in his appeal submission was a summary of a personal bank account for October 14 – November 13, 2015, showing an opening balance of -\$55.51, total deposits of \$1,111.42, total withdrawals of \$1,113.95, and a closing balance of -\$58.04.

The panel admitted the additional written testimony and bank account summary as information in support of the records before the ministry at reconsideration pursuant to section 22(4) of the Employment and Assistance Act. The new information provided further detail respecting the appellant's health and finances consistent with the information previously provided by the appellant.

The ministry relied on its reconsideration decision as its appeal submission.

PART F – Reasons for Panel Decision

Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible for a crisis supplement for a comforter because the criteria set out in section 57(1) of the EAPWDR was reasonably supported by the evidence or a reasonable application of the legislation. That is, was the ministry reasonable when it determined that it was not satisfied that:

- the crisis supplement was required to meet an unexpected expense and that there were no resources available to obtain a comforter as required under paragraph (a); and
- failure to obtain a comforter would result in imminent danger to the appellant's health as required under paragraph (b).

Relevant Legislation – section 57(1) of the EAPWDR

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*.

Unexpected need – section 57(1)(a)

The appellant argues that as the bed bugs were unexpected, so was the resulting damage caused to his comforter by repeated washing to remove the toxic bed bug spray. The appellant notes that the ministry is aware of the bed bug problem, having provided bed covers in 2014 and 2015.

The ministry argues that the need to replace a comforter after multiple washings is not an unexpected expense.

The appellant's request for a replacement comforter was made in early November 2015. The appellant indicated that the comforter was 1 ½ years old and that the bed bug problem existed in

2014 and 2015 and that the comforter had been constantly washed. While there is insufficient information to establish exactly how long the bed bug problem existed, as the appellant's request was made near the end of 2015 and the bed bug problem began sometime in 2014, it is likely that the constant washing of the comforter had been ongoing for some time. Therefore, the panel finds that the ministry reasonably determined that it is not unexpected to have to replace the comforter after multiple washings and that the need for a new comforter is not unexpected.

Available Resources – section 57(1)(a)

The appellant argues that he has checked all free resources, noting that other people are given higher priority based on their circumstances. He is left with \$274 after shelter costs for food and other basic items, leaving him without funds to purchase a comforter. Further, the ministry discriminately assumes that he has the option to rent accommodation with phone and electricity for \$375. He argues that the ministry has relied on lies and speculation, and that the ministry split his request for a winter jacket and a comforter, which were made on the same day, to show less of a crisis.

The ministry argues that the appellant's support allowance is intended to be used for daily living expenses such as bedding and that his shelter allowance is intended for shelter costs. That the appellant chose to divert some of his support allowance to pay rent that is significantly higher than his shelter allowance does not change the fact that he was provided with assistance for his daily living expenses. Further, there is insufficient evidence that there is a lack of resources available in his support allowance to budget on a gradual basis to purchase a comforter if he had chosen to rent accommodation that was within his shelter allowance. The ministry concludes that the appellant's support allowance is an alternate resource to obtain a comforter.

While the appellant argues that the ministry intentionally considered his request for the comforter and the winter jacket requested at the same time to show less of a crisis, each item requested must meet the legislative requirements. The ministry does not take issue with the appellant's assertion that he has been unable to obtain a comforter for free from a community resource. Rather, the ministry argues that the appellant has not provided sufficient information to establish that his support allowance is not an available resource with which to purchase a comforter. In this regard, the appellant argues that he relies on part of his support allowance to meet his shelter costs, leaving him with only \$274 for food and any other costs and provided a one-month bank account summary to show that he is without funds. The amount of monthly assistance provided by the ministry is not in dispute and is the same amount shown on the account summary as total deposits. However, it is unclear how the appellant arrives at the amount of \$274 after shelter costs. Even if his somewhat higher shelter costs are accepted, the appellant is left with approximately \$477 and the account summary provides no details of how this money was spent. Recognizing that the onus is on applicant to provide information to establish eligibility, the panel finds that the ministry has reasonably determined that there is insufficient information to establish that the appellant's support allowance was not available as a resource from which a comforter could be budgeted.

[]

Imminent Danger to Physical Health – section 57(1)(b)

The appellant argues that given his medical conditions, of which the ministry is aware, his body must maintain its temperature, especially while sleeping. Bedding, including warm bedding in the winter, is a bare necessity for life existence and he has a right to an adequate standard of living. The ministry has not looked at his file in determining life threatening need and the only way a non-biased appeal can be decided is for the ministry to provide medical information pertaining to his PWD status and receipt of nutritional supplements as he is not stupid enough to pay his doctor \$100 for a letter to explain the reasons he requires the requested items.

The ministry argues that there is insufficient evidence to support a probability of immediacy that failure to obtain a new comforter will place the appellant's physical health in imminent danger.

The panel notes that the ministry erroneously references "clothing" in its reasons for the imminent danger criterion but finds that it is clear from the balance of the reconsideration decision that the subject matter is the requested comforter and that the reference to "clothing" was simply a typographical error. The panel notes, that it is the appellant's responsibility to provide information to establish "imminent danger"; it is not the responsibility or role of the ministry to provide information to establish that an applicant meets the eligibility criteria. While the appellant has provided some information in support of his argument that his physical health is in imminent danger, the panel finds that the ministry has reasonably determined that the information is not sufficient to establish that the appellant's physical health would be in "imminent" danger if a new comforter is not obtained.

Conclusion

In conclusion, the panel finds that the ministry reasonably determined that the mandatory criteria of section 57 of the EAPWDR have not been met and that the appellant is therefore not eligible for a crisis supplement for a comforter is reasonably supported by the evidence. The reconsideration decision is confirmed.