

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) Reconsideration Decision dated February 5, 2016 which held that the Appellant is not eligible for a crisis supplement for an additional mattress for the Appellant's grandchild, under section 57(1) of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) because she did not meet the criteria as set out in the legislation, because

- (a) The family unit or person in the family unit does not require the supplement to meet an unexpected expense or obtain an item unexpectedly needed and no evidence was presented demonstrating that the appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit.
- (b) The minister does not consider that 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 or removal of a child under the Child family and Community Services Act.

## PART D – Relevant Legislation

*Employment And Assistance For Persons With Disabilities Regulation* (EAPWDR), Section 57(1).

## PART E – Summary of Facts

Because this was a written appeal, neither the Appellant nor a Ministry representative were in attendance.

The evidence before the Ministry at Reconsideration consisted of:

A Request for Reconsideration dated January 20, 2016, in which the Appellant writes

- that she was provided a low bed for herself from a local supplier, and that she requested the Ministry to provide a mattress to place on top of the Appellant's bed so that it came up to a better height,
- that she subsequently requested that the Ministry provide another mattress to place on top of the Appellant's grandchild's bed so as to bring that bed, which was about a foot off the ground, up to a better height
- that the grandchild jumps off the low bed every morning to go to school
- that the Appellant is afraid that without a mattress to place on top of the grandchild's low bed, it might cause some medical problems to the grandchild's hips or back from getting up every morning
- that the Appellant has a compressed spine, and so is aware of the pain

The Ministry's recognition that the Appellant was issued a crisis supplement in February 2015 for new beds for the Appellant and the Appellant's grandchild, and specifically that the grandchild was at that time provided with a new mattress, box spring and frame. The Appellant was provided with a further crisis supplement in April 2015 for another mattress for the Appellant as the one provided for the Appellant in February 2015 was too low.

### **Preliminary Issue – New Evidence**

#### **Relevant Legislation**

*Employment and Assistance Act (EAA), Section 22(4).*

**22** (4) In a hearing referred to in subsection (3), a panel may admit as evidence only

- (a) the information and records that were before the minister when the decision being appealed was made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

#### **Analysis – New Evidence**

In the Notice of Appeal dated February 16, 2016, the Appellant stated she cannot afford a new mattress. On February 25, 2016 the Appellant elaborated on her financial situation and said that old age security was received commencing in December, and should have topped up the Appellant's benefits, but that the money was sent to a housing agency and the rest of the Appellant's money goes toward medications, clothes, shoes and food. The clear implication on the 2<sup>nd</sup> Notice of Appeal is that the Appellant has no resources with which to buy a mattress for the grandchild.

At Reconsideration, the Appellant did not raise the issue of and there was no evidence concerning the Appellant's inability to buy the new mattress due to lack of resources. Thus the lack of money claimed in the Notice of Appeal dated February 16, 2016 and in the Notice of Appeal dated February 25, 2016 is not either information and records that were before the minister when the decision being appealed was made, nor is it information in support of any such information and records.

#### **Conclusion – New Evidence**

The panel does not admit into evidence the Appellant's February 16, 2016 and February 25, 2016 statements about lack of funds.

## PART F – Reasons for Panel Decision

The issue in this Appeal is whether the Ministry's decision dated February 5, 2015 to deny the Appellant a crisis supplement for a mattress to place on top of the Appellant's grandchild's bed, on the grounds that the Appellant did not meet all of the legislated criteria pursuant to Section 57(1) of the *Employment And Assistance For Persons With Disabilities Regulation* was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

### Principal Issue – Crisis Supplement

#### Relevant Legislation

*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*.

### 1<sup>st</sup> Criterion: Unexpected Expense or an Item Unexpectedly Needed [Sec 57(1)(a)]

#### Appellant's Position

The Appellant's submission did not address the criterion of "An Unexpected Expense" or "An Item Unexpectedly Needed". The Appellant had said in the Request for Reconsideration that the grandchild had been using the bed and that the grandchild jumps off every morning to go to school; the evidence was that the bed had been in use for about a year.

#### Ministry's Position

The Ministry's position was that the grandchild began using the bed in February 2015, is currently using it, and that it was fine. The Ministry's position was that nothing unexpected has occurred that impacts the grandchild's ability to use the bed, and that therefore there is no "unexpected expense" nor any item the need for which was unexpected, and that therefore the first criterion of Section 57(1)(a) was not satisfied.

#### Analysis

The Ministry misstated the first criterion which must be met under sec 57(1)(a) of the *EAPWDR* in that the Ministry stated that there was "no unexpected need going unmet" whereas the first criterion is that there must be an unexpected expense, or the appellant needs to obtain an item unexpectedly needed. Nevertheless, the essential element of this criteria is "unexpectedness", and the panel finds that there is no expense which is unexpected, and that the new mattress for the grandchild is not an unexpectedly needed item. The panel finds that the Appellant has not established entitlement under this first criterion.

### 2<sup>nd</sup> Criterion: Unable to meet the Expense or Obtain the Item Because There are No Resources Available [Sec 57(1)(a)]

#### Appellant's Position

The Appellant did not address this criterion.

#### Ministry's Position

The Ministry said that the Appellant had provided no information to indicate whether or not the Appellant had exhausted

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the Appellant's personal funds or community resources to obtain the new mattress and also the grandchild's current mattress is an alternate resource with which to meet the grandchild's needs.

**Analysis**

The Ministry stated the second criterion as “no alternate resources available”, but the legislated criterion is “no resources available”, not “no alternate” resources. However at Reconsideration there was no evidence about the Appellant's resources with which to meet the need. The panel finds that the Appellant has not established entitlement under this second criterion.

**3<sup>rd</sup> Criterion: 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 [Sec 57(1)(b)(i)] or will result in Removal of a Child under the *Child, Family and Community Service Act* [Sec 57(1)(b)(ii)]**

**Appellant's Position**

The Appellant did not address the issue of imminent danger to physical health; she said that the grandchild's shoulders and hips hurt when the grandchild wakes up as the mattress is thin and hard, but the Appellant said nothing about imminent danger. The Appellant did not address the issue of removal of the granddaughter from the Appellant's care if the mattress was not supplied.

**Ministry's Position**

While the Ministry acknowledged that the bed might cause the grandchild some medical problems and that the Appellant had concerns, there was no evidence about an “imminent threat to physical safety”. There was no evidence about removal of the grandchild from the Appellant's care if the mattress was not supplied.

**Analysis**

The final criterion, that of imminent danger because to health or the possibility of removal of the child from the Appellant's care, was not met. While a new mattress may be desirable, there was no evidence of imminent danger to health, nor was there any evidence that without the mattress the grandchild would be removed from the Appellant's care. The panel finds that the Appellant has not established entitlement under this third criterion

**Conclusion**

All three criteria mandated in Section 57(1) *EAPWDR* must be satisfied in order for a crisis supplement to be granted. The panel finds that the Appellant has failed to establish entitlement to a crisis supplement on all three of the required criteria under Section 57(1) of the *EAPWDR*. The panel concludes, after a review of all the evidence and the relevant legislation, that the Ministry's decision that the Appellant was not eligible for a crisis supplement for a new mattress for the Appellant's grandchild was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the Appellant, and therefore confirms the Ministry's decision.