



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated April 11, 2016, which held that the appellant is not eligible for a crisis supplement to pay for dental services which are not fully covered by the ministry's dental coverage, pursuant to section 57 of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)* . Specifically, the ministry determined that the appellant had failed to demonstrate that there are no other resources available to the appellant to meet this expense, and also that the item requested is a health care good or service and therefore a crisis supplement cannot be issued for it.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The Panel reviewed the evidence submitted in the written record.

The Ministry provided the following evidence in the appeal record:

- The appellant is a single person with Persons with Disabilities designation
- On March 1, 2016, the Appellant requested assistance to pay for dental procedures in the amount of \$69.71
- In the Reconsideration Decision dated () the ministry notes that the Appellant has not demonstrated that he has no other resources with which to pay for the dental services, and that as the dental services are included in Schedule C, legislation precludes them from issuing a crisis supplement.

The Appellant provided the following evidence:

- In the Notice of Appeal dated April 18, 2016 the Appellant notes that there are no resources available to pay for the dental expenses.
- An assessment of income, expenses, and resources compiled by the Appellant's outreach worker dated April 13, 2016 which indicates that the Appellant's fixed monthly expenses represent all but approximately \$136 of the Appellant's monthly income. The assessment notes that the Appellant should be eating a heart healthy diet, and due to the costs of fresh produce, the Appellant is finding it increasingly difficult to afford health groceries. The food bank is over an hour away, and travel is difficult due to issues with his knee. The food bank distributes primarily non-perishable canned and processed foods which the appellant should not be consuming. The appellant stated he contacted 7 local service clubs and churches to request financial aid for dental care, and was declined. An 8th organization indicated that although they may be able to assist, there is a year-long wait list for free dental work. The Appellant has asked to be put on the wait list. The Appellant is not able to receive assistance from his family, and he has no friends or acquaintances willing to lend him money without assurance that he will pay them back, which he is unable to do.
- A Request for Reconsideration dated March 31, 2016 stating that the Appellant's dental issue must be addressed prior to receiving total knee arthroplasty, and a delay in accessing the knee surgery constitutes a medical emergency and may result in a worsening condition leading to confinement in a wheelchair. Due to pain and mobility issues the Appellant's stress levels are increasing, putting him at risk of a stroke and premature death. The dental supplement will allow the Appellant to access total knee arthroplasty, which will substantially increase his mobility, health and quality of life.
- A letter from an orthopaedic surgeon dated March 23, 2016 indicating that the Appellant requires dental work prior to undergoing total knee surgery.
- A document, "Surgical optimization clinic – orthopedics – Dental Guidelines" not dated but received by the ministry on March 1, 2016, stating that prior to total joint replacement surgery, patients must have a dental exam and treatment at least 6 weeks prior to the surgery, in order to decrease the risk of post-operative prosthetic infection.
- A document from a dentist indicating the exam, 2 films and panoramic film will cost \$180.80 and the appellant's portion of that bill is \$69.71.

Section 22(4)(b) of the Employment and Assistance Act states 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).

As the Appellant had not provided any information or evidence regarding his inability to pay the patient portion of the dentist's fees to the ministry prior to reconsideration, the panel determined the assessment of income, expenses, and resources compiled by the Appellant's outreach worker and submitted in the appeal package was new evidence and not in support of evidence before the ministry at the time of reconsideration and therefore not admissible under s.22(4) of the EAA.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated April 11, 2016, which held that the appellant is not eligible for a crisis supplement to pay for dental services which are not fully covered by the ministry's dental coverage, pursuant to section 57 of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. Specifically, the ministry determined that the appellant had failed to demonstrate that there are no other resources available to the appellant to meet this expense, and also that the item requested is a supplement described in Schedule C and therefore a crisis supplement cannot be issued for it.

Section 57 of the EAA states: 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

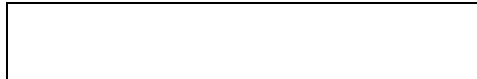
(b) any other health care goods or services.

The Parties' Positions

Both the Ministry and the Appellant agree that the Appellant meets the first and third conditions of Section 57 of the EAPWDR, in that the requirement for dental services is an unexpected expense, and that failure to obtain the item will result in imminent danger to physical health.

The Ministry argues that the Appellant did not meet the 2nd condition of section 57 of the EAPWDR, and did not provide any information in the original request or at reconsideration indicating that the Appellant has exhausted his personal funds and community resources to pay for the dental services. The Appellant argued in the Notice of Appeal that he has no resources available to him but evidence supporting that statement cannot be considered by the Panel.

The Ministry argues that the supplement is to pay for Basic Dental Care, a supplement identified in Schedule C, and Section 57(3) is clear that a crisis supplement may not be provided for the purpose of obtaining a supplement described in Schedule C or any other health care services. The Appellant argues that he is facing imminent danger to his health if he is unable to access the dental services, as he will not be able to complete his knee surgery and also has other health consequences related to the stress and pain this situation is causing or prolonging. The Appellant argues that his health will continue to deteriorate unless he is able to access treatment.



Panel Decision:

Section 57(1)(a) indicates that a crisis supplement can only be issued when there are no other resources available to the family unit to pay for an unexpected item of need. The panel finds that the Ministry's determination that there was insufficient evidence to determine that the Appellant had no other available resources was a reasonable interpretation of the legislation given the evidence before the ministry at reconsideration.

Section 57(3) of the EAPWDR is clear that a crisis supplement cannot be issued to pay for a health good or service. For this reason, the panel finds that the Ministry's decision that the Appellant was not eligible for a crisis supplement is a reasonable application of the legislation in this circumstance and confirms the ministry's decision.