

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 14, 2016 which denied the appellant's request for a crisis supplement to cover the cost of a mattress for her son. The ministry held that all of the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met as the ministry found that:

- the cost of a mattress for her son was not an unexpected expense or an item unexpectedly needed;
- there was insufficient information to establish that there are no resources available to the family unit to obtain the mattress; and,
- there was insufficient evidence to show that failure to obtain a mattress for her son will result in imminent danger to the physical health of anyone in the appellant's family unit or the removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

Although a letter was received by the Tribunal from the advocate stating that the advocate was not available on the date of the hearing, there was no request for an adjournment received from the appellant prior to the hearing. The Release of Information provided to the Tribunal by the appellant did not give authority for the advocate to make decisions on the appellant's behalf. Therefore, the panel could not consider a request for an adjournment from the advocate as she was not given authority to make decisions on behalf of the appellant and only the appellant had the authority to make such a request.

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Letter dated May 31, 2016 from a rehabilitation facility in which a physician wrote that the appellant is currently an inpatient and requires new beds for herself and her son. Failure to provide mattresses will delay her discharge from the acute care facility and will negatively impact her already poor health; and,
- 2) The appellant's Request for Reconsideration dated May 31, 2016.

In her Request for Reconsideration, the appellant wrote that:

- Her son had been sleeping on an air mattress and he had been using her mattress while she is in hospital.
- Her son is tall and the mattress keeps deflating. He is not sleeping well, his back is sore, and this is making it difficult for him to focus at school.
- She does not have any alternate resources available to purchase a mattress. She contacted a charitable organization and they will only provide used, un-sanitized mattresses for free. She has asked friends and family to help her purchase new mattresses but they do not have the funds either.
- Her family is already helping her care for her son while she is in hospital and they are unable to help her further.

In her Notice of Appeal dated June 21, 2016, the appellant expressed her disagreement with the ministry's reconsideration decision and wrote that:

- Her son has nowhere to sleep in their apartment. His air mattress deflated and this was unexpected.
- She cannot afford food, let alone a new mattress for her son.
- She has been hospitalized since April 2016 and is unable to find other sources of funding.
- This decision is not in the best interest of her son and he is at a disadvantage if his basic needs, such as a bed to sleep on, are not met.

The ministry relied on its reconsideration decision as summarized at the hearing. The ministry's evidence included:

- The appellant is a single recipient of disability assistance with one dependent child.
- On April 11, 2016 the appellant requested a crisis supplement to purchase mattresses for herself and her son. According to the ministry file notes, the appellant stated that the beds are old and worn and the springs are coming through, and her son's bed was over 30 years old and not useable and he was sleeping on the floor. The appellant's request was denied.

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- On May 11, 2016 the appellant made another request for a crisis supplement to purchase beds for herself and her son. The appellant's request for a bed for herself was approved but her request for a bed for her son was denied.

At the hearing, the ministry stated that:

- The ministry paid for sanitization and delivery of a used bed and box spring from the charitable organization for the appellant, as well as a new bedding package, but the appellant refused to take delivery of any of the items stating that she wants a new bed. The bedding package includes new sheets, pillows, and a blanket.
- There is no information available in the ministry's notes to indicate that the appellant's son has a history of any medical issues.
- In response to a question, the ministry confirmed that the summary of facts in the reconsideration decision contained an error in the wording since the appellant wrote in her Request for Reconsideration that she did *not* have the funds to purchase a mattress and the "not" was inadvertently omitted.

Admissibility of Additional Information

The panel admitted the information provided by the ministry at the hearing as it provided more detail relating to the ministry's provision of mattresses and is in support of information before the ministry on reconsideration, pursuant to Section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover the cost of a mattress for her son, on the basis that the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

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 Expense or Item Unexpectedly Needed

The ministry's position is that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically that the supplement is required to obtain an item unexpectedly needed of for an unexpected expense, the family unit has no resources available to meet the expense or obtain the item, and failure to obtain the item 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 Service Act* (CFCSA). The ministry argued that there are no unexpected or urgent circumstances concerning the need for a new mattress for the appellant's son as the appellant stated to the ministry that his mattress is over 30 years old and she has, therefore, been aware for some time that he required a new mattress.

The appellant's position is that the cost of a new mattress for her son is an item unexpectedly needed, as she wrote in her Notice of Appeal that her son has nowhere to sleep in their apartment, his air mattress deflated and this was unexpected.

Panel decision

Section 57(1)(a) of the EAPWDR sets out that a crisis supplement may be provided if the supplement is required to meet an unexpected expense or obtain an item unexpectedly needed. The appellant did not assert that her son had an unexpected critical health issue, but wrote in her Notice of Appeal that it was unexpected that her son's air mattress deflated. As the appellant's son had a bed that the appellant told the ministry was over 30 years old, which he disposed of as "not useable", the panel finds that the ministry reasonably determined that the fact of the aging of her son's bed and a need to replace it would be known to the appellant for some time and was not unexpected. An air mattress is also not intended to be used as a permanent bed and it is not unexpected that it will be unreliable when used for this purpose. The panel finds that the ministry reasonably concluded that the cost of a mattress for the appellant's son is not an item unexpectedly needed and is not an unexpected

expense, under Section 57(1)(a) of the EAPWDR.

No resources

The ministry's position is that there is no evidence to support that the appellant is not able to budget gradually for a new mattress for her son from her support allowance, which is normally intended to be used for general household items.

The appellant's position is that she has no resources available to her to obtain a new mattress for her son. In her Request for Reconsideration she argued that she contacted a charitable organization and they will only provide used, un-sanitized mattresses for free. The appellant wrote that she has asked friends and family to help her purchase new mattresses but they do not have the funds either and her family is already helping her care for her son while she is in hospital and they are unable to help her further. In her Notice of Appeal, the appellant wrote that she cannot afford food, let alone a new mattress for her son. The appellant argued that she has been hospitalized since April 2016 and is unable to find other sources of funding.

Panel decision

While the appellant wrote that she contacted the charitable organization and they will only provide used, un-sanitized mattresses for free, the ministry stated at the hearing that the ministry will pay for sanitization and delivery of used beds and the appellant had recently refused delivery of a used and sanitized bed from the charitable organization because she wanted a new bed. As well, the appellant is in receipt of a support allowance that is intended to be used for general household items and the appellant did not provide information about her monthly budget to show that she did not have resources available to budget over time for a new bed for her son. The panel finds that the ministry reasonably concluded there is no evidence to support that there are no resources available to the family unit to meet the expense, under Section 57(1)(a) of the EAPWDR.

Imminent Danger

The ministry's position is that there was insufficient evidence to show that failure to obtain a new mattress for the appellant's son will result in imminent danger to the physical health of anyone in the appellant's family unit.

The appellant's position, as set out in her Request for Reconsideration, is that her son is tall and the mattress keeps deflating and since he is not sleeping well, his back is sore, and this is making it difficult for him to focus at school. In her Notice of Appeal, the appellant wrote that the ministry's reconsideration decision is not in the best interest of her son and he is at a disadvantage if his basic needs, such as a bed to sleep on, are not met.

Panel Decision

The appellant wrote in her Request for Reconsideration that her son is tall, that the air mattress keeps deflating, he is not sleeping well and his back is sore and that this is making it difficult for him to focus at school, but there was no evidence provided to show that failure to obtain a mattress will result in imminent danger to his physical health. The ministry stated at the hearing that there is no information available in the ministry's notes to indicate that the appellant's son has a history of any medical issues.

In the letter dated May 31, 2016, a physician from a rehabilitation facility wrote that the appellant was an inpatient and required new beds for herself and her son and "failure to provide mattresses will

delay her discharge from the acute care facility and will negatively impact her already poor health;" however, the physician did not explain how the lack of a mattress for the appellant's son will delay the appellant's discharge or elaborate on how the appellant's continued admission will negatively impact her or her son's health. The panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to obtain a mattress for her son will result in imminent danger to the physical health of anyone in the appellant's family unit, pursuant to Section 57(1)(b) of the EAPWDR, was reasonable.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of a mattress for her son because the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision. The appellant's appeal, therefore, is not successful.