

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (ministry) reconsideration decision dated August 23, 2016 which held that the appellant was not eligible for a crisis supplement for furniture pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The ministry determined that the appellant failed to establish that, pursuant to section 57 (1) of the EAPWDR, a crisis supplement for a bed was necessary:

- to meet an unexpected expense or one that was unexpectedly needed;
- that she did not have other resources to meet her need; and
- that failure to meet the expense of a bed or obtain a bed would result in imminent danger to her physical health or that of another person in the family unit.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included:

- Notes on the ministry's original decision that denied the appellant a bed. The notes are dated August 11, 2016 and state:
 - [frame] not needed;
 - "I have never got a bed from you [the ministry] before";
 - "it was unexpected that it [the old bed] would not last a lifetime, I did not expect it not to ever wear out to this point";
 - "Its not the normal wear and tear that is unexpected it's the money to buy a bed that is unexpected and the bed is now gone and in the garbage due to unexpected condition of [the] bed and unsleepability";
 - "I am now on the floor";
 - "I don't find it reasonable to expect to have to sleep on the ground or in someone else's discarded bed it [illegible]";
 - "I was not expecting to have to buy a new bed, I'm sleeping on the floor";
 - [Hydro] "not a crisis grant, is coming off my cheque";
 - This [is] in a imminent danger for my physical health";
 - "I can get a note from my doctor in my next appointment"; and
 - That she needs a new mattress and box-spring and because her electricity bill is deducted from her total disability income, she is not able to replace her bed.
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- Request for reconsideration (RFR), signed and dated August 11, 2016, states in part:
 - "I no longer have a bed, it was so bad I threw it out";
 - "It made my neck and back sore";
 - "I was sleeping on the floor and still am";
 - "I have never got a bed before from [the ministry] I need one now, not a frame";
 - "in the stress of the denial, I got sick and in a manic episode I threw out the [old] bed" and;
 - "I need a new bed, not something someone discarded when they buy a new bed – bed bugs – kid pee - prostitute use – not comfortable enough for someone so they purchased new one.

Evidence On Appeal

A Notice of Appeal (NOA), signed and dated September 25, 2016, which states "I have no bed. I need one. I would like to receive \$400.00 to get one. I haven't got one before".

Evidence At the Hearing

At the hearing the appellant re-iterated the information that was in her RFR and NOA, and added that:

- She has mental illness for which she takes medication. This medication has caused her to gain 100lbs over the past 2 years. For this reason she has required new clothes, for which the ministry gave her a crisis supplement, and unexpectedly wore out her old bed;
- She threw out her old bed and is sleeping on the floor which is more comfortable than her old bed;
- She did not get a note from her doctor because she thought he would not give her one to say

that she had a sore neck and back due to her bed;

- Her current income does not allow for her to put monies aside for the purchase of a new mattress (the appellant reviewed her personal finances in detail - both income and expenses);
- She has a phobia from germs and cannot use a second-hand bed;
- Her doctor can confirm that she has gained weight because of her medication; and
- She thought the ministry was well aware of her weight gain because they provided a crisis supplement for clothing for this reason.

At the hearing the ministry relied on its reconsideration decision and added:

- On April 4, 2016 the appellant made a request for a crisis supplement for clothing and arrangements were made to pay her electricity bill;
- On July 7, 2016 the appellant made a request for a crisis supplement for a bed;
- The ministry may consider the option of a new bed if the appellant presented a note from her doctor confirming a new bed is medically necessary due to mental health issues such as a phobia; and
- For the purchase of a bed, the ministry requires 3 quotes with one of those quotes including a second-hand option.

Admissibility of Additional Evidence

Oral Evidence

The ministry did not object to the admission of the appellant's oral evidence.

As part of her oral evidence at the hearing the appellant stated that her old bed wore out unexpectedly because of the medication she takes for her mental illness she has gained 100lbs over the past two years and that she has a phobia to germs which prevents her from using a second-hand bed. On review of the evidence, the panel notes that the appellant's reference to weight gain over the past year and germ phobia are not in support of or corroborate the evidence that was before the ministry at the time of reconsideration. The panel therefore finds that the appellant's reference to weight gain and germ phobia are not admissible as they are not in support of the information and records that were before the minister when the decision being appealed was made, pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision that the appellant failed to establish that her need for a crisis supplement for a bed was an unexpected expense or was unexpectedly needed, that the expense could not have been met by other resources and that failure to obtain the bed would result in imminent danger to the appellant's physical health as required by Section 57 (1) (a) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 5 of EAPWDA provides as follows:

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Section 57(1) of EAPWDR provides 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*.

The Appellant's Position

The appellant's position is that she did not expect her bed to wear out when it did so it is an unexpected need. She argues that she does not have the money to purchase a new bed because she has to pay for electricity from her income assistance and therefore could not budget for the purchase of a new bed. In addition, she argues that she does not want use a second-hand bed that someone else has discarded. She also argues that sleeping on the floor is an imminent danger to her health.

The Ministry's Position

The ministry's position is that the appellant's need for a bed is not unexpected or a bed is not unexpectedly needed because:

- it is not unexpected for a bed to wear out and eventually need replacing;
- her electricity costs has been deducted from her income assistance since at least May 2015 and therefore this expense was not something unexpected and or something which would have prevented her from budgeting for a new bed;
- there is no evidence that she suffers from manic episodes that would cause her to throw

away her previous bed.

The ministry argues that the appellant failed to provide enough information to establish that she attempted to use other resources to meet her need for a bed. Finally, the ministry argues the appellant failed to provide enough information to establish that failure to provide a crisis supplement for a bed could result in imminent danger to the appellant's health. Since the appellant has not met all of the legislative criteria required to be eligible for a crisis supplement for a bed, pursuant to section 57 (1) of the EAPWDR, she is not eligible.

The Panel's Decision

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or 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 ministry considers the failure to meet the expense or obtain the item will result in imminent danger to the physical health of a member of the family unit.

Unexpected Need or Expense

The appellant admits that the bed she had was old and that it wore out. Therefore the ministry was reasonable in determining that it is not unexpected that a bed will wear out over time and need replacement. When reviewing her personal finances, the appellant admitted that her electricity bill was deducted from her income assistance and that she knew about this. Therefore her reduced income was not unexpected and the appellant could then budget for a new bed. The appellant did not provide evidence, such as a note from her doctor, to demonstrate that she suffers from manic episodes that caused her to unexpectedly throw away her bed. The panel finds that the ministry reasonably determined that the appellant failed to establish that she needs a bed unexpectedly or that it was an unexpected expense, pursuant to Section 57(1) of the EAPWDR.

Availability of Resources

The appellant has argued that she does not want a second-hand bed due to hygiene. She also outlined her personal expenses which demonstrated that she cannot afford to purchase a bed outright in an urgent situation. However, the appellant has not demonstrated or provided evidence that she requires only a new bed and that her needs cannot be met with a second-hand bed. The appellant also has not demonstrated that she attempted to access community resources or that she turned to friends and family for help to obtain either a new bed or a second-hand bed. The panel finds that the ministry reasonably determined that the appellant has not established that other resources were not available to meet his need for furniture, pursuant to Section 57(1) of the EAPWDR.

Imminent Danger to Physical Health

While the appellant stated that sleeping on the floor causes imminent danger to her health, she did not provide evidence, such as a note from her doctor or medical reports, that sleeping on the floor poses a serious threat to an existing health issue or that a specific medical condition has developed that will result in imminent danger to her physical health. The panel finds that the ministry's

conclusion that there is not sufficient information to establish that failure to meet the cost of a bed will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to Section 57(1) of the EAPWDR, was reasonable.

Conclusion

The panel finds that the evidence establishes that the ministry was reasonable in its determination that all of the criteria set out in Section 57 (1) of the EAPWDR have not been met by the appellant. As a result the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement for a bed was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful in her appeal.