

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated October 19, 2016 which denied the appellant's request for the maximum shelter allowance for a one-person family unit. The ministry found that the smaller amount is the appellant's actual shelter cost of \$116 and is, therefore, the amount allowable according to Section 4 of Schedule A of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Schedule A, Sections 4 and 5

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act (EAA)*.

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

- 1) Prescription receipts covering the period January 16, 2015 through July 2, 2015;
- 2) Clinic receipts for naturopathic consultations, including a letter to Canada Pension Plan, and supplements, covering the period from January 16, 2015 through September 15, 2015;
- 3) Handwritten notes totaling prescriptions at \$583.37 and another total of \$2,832.59;
- 4) Letter dated April 27, 2016 from a naturopathic clinic stating that the appellant requires her full disability of \$906 per month to purchase her medication while providing housing, utilities and food for herself. She has been receiving \$647 per month;
- 5) Receipts dated July 29, 2016 for the purchase of a new compact fridge for \$360.14 and August 6, 2016 for the purchase of a new compact fridge for \$225.39, for a total of \$585.53;
- 6) Handwritten letter stamped received by the ministry on August 25, 2016 in which the appellant wrote that:
 - Her household expenses have increased and her fridge/freezer “died and couldn’t be repaired again.”
 - She bought another small one that would fit. The freezer was the right size, but the fridge was too small.
 - She bought another small fridge and put it on top.
 - Now she has a functional fridge and freezer.
- 7) Invoice dated September 21, 2016 for investigating low water pressure, adjusting pressure switch and supplies for a total of \$258.33; and,
- 8) Request for Reconsideration dated October 11, 2016, with attached notes and documents.

In her Request for Reconsideration, the appellant wrote that:

- She has two requests: 1) an increase in her household living expenses, and 2) an increase in living expenses to pay for extensive medical expenses.
- Her fridge “died beyond repair in July 2016. She replaced the fridge with two small fridges.
- She does not pay rent, but she is solely responsible for all maintenance/replacements in her house.
- She is asking for the cost of the new fridges (\$585.53) to be reimbursed.
- She has recurring infections and spent \$2,832.59 for doctor visits and \$583.37 on prescriptions.
- She is submitting a second household expense for plumbing/water repairs. She draws water from the lake and in the spring the intake pipe had two breaks. A family member repaired the damage.
- When the water was turned on again, she did not have enough water pressure in her house and the plumbing company restored her water pressure for \$120.00
- The water pipe from the lake to the pump had to be properly insulated as it is above-ground and would freeze in the winter. The cost of supplies totaled \$312.07.

Additional information

In her Notice of Appeal dated October 27, 2016, the appellant expressed her disagreement with the ministry reconsideration decision and wrote that:

- She is writing to receive more shelter allowance.

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- As her doctor stated in a letter, she spends about \$350 per month for nutritional therapies. Her medical expenses for 2015 were \$3,415.96 and none are covered by Pharmacare.
 - She needs reimbursement for the fridge replacement cost of \$583.53.

Prior to the hearing, the appellant provided a letter to the tribunal dated November 15, 2016 and the following additional documents:

- 1) Photograph of two small appliances, one placed on top of the other;
- 2) Letter dated May 1, 2014 in which the owner of the property where the appellant “has lived for the past 20 years” wrote that her home on the property is paid for in full. The appellant is responsible for her own phone and hydro costs and any maintenance and repairs to the home.
- 3) Letter dated March 3, 2015 from a naturopathic clinic to Canada Pension Plan Disability benefits stating that the appellant has been in their care since December 2013 and her chronic impairment of energy and cognition, with chronic pain and infection renders her unable to maintain employment and her condition has been constant and ongoing since December 2013;
- 4) Letter dated April 27, 2016 from a naturopathic clinic stating that the appellant has been in their care since December 2013 and that the appellant needs disability benefits so that she is able to “meet her chronic and debilitating care needs”; and,
- 5) Undated partial list of symptoms of chronic fatigue syndrome.’

The ministry relied on the reconsideration decision as its submission on the appeal. The information included:

- The appellant has been in receipt of assistance since August 2015 and she received Persons With Disabilities (PWD) designation effective April 2016.
- She is a sole recipient of disability assistance with no dependents.
- She resides in and owns her own mobile home that is reported to be paid for in full.
- Her current monthly assistance amount includes a support allowance of \$556.42, which is the maximum support allowance available for a sole PWD recipient. The appellant’s monthly assistance amount also includes transportation support of \$52, diet allowance of \$40, and a shelter allowance of \$116.
- The appellant’s shelter allowance is \$116 per month for utility costs, which include hydro and phone.

Admissibility of Additional Information

The ministry did not raise an objection to the admissibility of the additional documents submitted by the appellant. The panel considered the letters and the photograph as information that supports the appellant’s requests as articulated at reconsideration and admitted the additional documents as being in support of information and records that were before the ministry at reconsideration, in accordance with Section 22(4)(b) of the *EAA*.

PART F – Reasons for Panel Decision

At issue on the appeal is whether the ministry's decision, which denied the appellant's request for the maximum shelter allowance, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Schedule A, Section 4(2) of the EAPWDR provides as follows:

Monthly shelter allowance

4 (2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375
2	2 persons	\$570
3	3 persons	\$660
4	4 persons	\$700
5	5 persons	\$750
6	6 persons	\$785
7	7 persons	\$820
8	8 persons	\$855
9	9 persons	\$890
10	10 persons	\$925

Schedule A, Section 5(1) and (2) provides as follows:

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;

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- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
 - (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
 - (e) utility costs;
 - (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

Ministry's position

The ministry's position, as set out in the reconsideration decision, is that Section 4(2) of Schedule A of the EAPWDR sets out that the monthly shelter allowance for a family unit is the smaller amount of the actual shelter costs and the maximum set out in the table for a one-person family unit, which is \$375. The ministry considered the appellant's request for service to her water system, and the invoice dated September 21, 2016 for a total of \$258.33, and found that this was included as the actual cost of repair to her place of residence and, therefore, part of her actual monthly shelter costs. The ministry wrote that the appellant has ongoing utility costs for hydro and phone for a total of \$116, added to the repair to the water system (\$258.33), for a total of \$374.33 as her actual shelter costs, and this was smaller than the maximum of \$375 and was approved by the ministry for that month. The ministry argued that there were no receipts provided by the appellant for the additional amounts requested for the cost to insulate the above-ground water pipe from the lake to the pump, which the appellant stated was \$312.07, and no evidence that the appellant received the ministry's approval prior to these repairs being completed, as required by Section 5(2)(f) of Schedule A of the EAPWDR.

Regarding the appellant's request for reimbursement for the cost of replacing her fridge, the ministry wrote that Section 5(2) of Schedule A of the EAPWDR stipulates that only the listed items are included when calculating the actual monthly shelter costs of a family unit, and this includes the actual cost of maintenance and repairs to the family unit's place of residence [Section 5(2)(f) of Schedule A] and not repair or replacement of appliances contained within the home. The ministry wrote that the reconsideration decision is limited to the consideration of the appellant's request for the maximum shelter allowance, and her request for review of her medical expenses must be pursued separately with the ministry.

Appellant's position

The appellant's position is that if her additional expenses were considered by the ministry, she would be entitled to additional amounts for her monthly shelter allowance. In her Request for Reconsideration, the appellant wrote that she requests an increase in her household living expenses as although she does not pay rent, she is solely responsible for all maintenance/replacements in her house. The appellant wrote that her fridge "died beyond repair in July 2016," she replaced the fridge with two small fridges, and she is asking for the cost of the new fridges (\$585.53) to be reimbursed. The appellant also submitted a second household expense for plumbing/water repairs to insulate the above-ground water pipe from the lake to the pump and she calculated the cost of supplies to total \$312.07. The appellant also requests an increase in her living expenses to pay for extensive medical expenses since she has recurring infections and spent \$2,832.59 for doctor visits and \$583.37 on prescriptions in 2015.

Panel decision

The provisions of Schedule A, Section 4 of the EAPWDR require that the ministry calculate the amount of the family unit's actual shelter costs in order to determine whether it is smaller than the maximum monthly shelter amount set out in the table for the applicable family unit which, for a one-person family unit, is \$375.00. The appellant acknowledged that she does not pay rent, but wrote

that she is solely responsible for all maintenance/replacements in her house, as confirmed in a letter dated May 1, 2014 in which the owner of the property wrote that the appellant is responsible for her own phone and hydro costs and any maintenance and repairs to the home. Section 5(2) of Schedule A sets out a description of how actual shelter costs are calculated and provides a defined list of eligible expenses which include "only" the listed items, including "utility costs" [Section 5(2)(e)] and the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval [Section 5(2)(f)].

The panel finds that the ministry canvassed the lists set out in Schedule A, Section 5 (1) and (2) and reasonably determined that the appellant's actual shelter costs included her "utility costs" of hydro and telephone, for a total of \$116 per month, and the cost of repair to the water system to her residence of \$258.33, for which the appellant provided a copy of the invoice dated September 21, 2016, and that the total actual shelter cost for that month was \$374.33, which is smaller than the maximum of \$375 under Section 4(2) of Schedule A. At reconsideration, the appellant submitted a second household expense for plumbing/water repairs to insulate the above-ground water pipe from the lake to the pump and she calculated the cost of supplies to total \$312.07. The appellant set out her calculation of a number of unspecified items that totaled \$312.07 and did not submit any supporting receipts with the dates and a detailed description of the services or supplies, and she did not claim to have obtained the ministry's approval prior to having this work completed. The panel finds that the ministry reasonably concluded that there was insufficient information to show that the amount of \$312.07 was for the actual cost of maintenance and repairs for the family unit's place of residence and that these costs have received the ministry's prior approval and that, therefore, the requirements of Section 5(2)(f) of Schedule A of the EAPWDR had not been met with respect to this request.

Section 5(2) of Schedule A of the EAPWDR stipulates that "only" the listed items are included when calculating the actual monthly shelter costs of a family unit, and this includes the actual cost of maintenance and repairs to the family unit's place of residence [Section 5(2)(f) of Schedule A]. The appellant stated that her refrigerator "died beyond repair," that she needed to replace it, and she requested reimbursement for the cost of replacement (\$585.53) as part of her actual shelter costs. As a refrigerator is one of many appliances that are movables and not a fixture to the residence, the panel finds that the ministry reasonably concluded that the cost of replacement of an appliance is not included in Section 5(2)(f) of Schedule A of the EAPWDR.

With respect to the appellant's request for an increase in her living expenses to pay for extensive medical expenses incurred in 2015, the ministry noted that the appellant's current monthly assistance amount includes a support allowance which is the maximum available for a sole PWD recipient. The panel finds that the ministry reasonably limited the reconsideration decision to the appellant's request for the maximum shelter allowance as the ministry had not yet made a decision on her second request that would be subject to reconsideration pursuant to Section 17(1) of the *EAA*. The ministry suggested that the appellant's medical expenses may be reviewed under other types of assistance available.

The panel finds that the ministry's decision, which denied the appellant's request for the maximum shelter allowance for a one-person family unit, was a reasonable application of the applicable enactment in the appellant's circumstances. The panel confirms the ministry's reconsideration decision. The appellant's appeal, therefore, is not successful.