

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated February 28, 2017, in which the ministry determined that the appellant was ineligible for a crisis supplement for home repairs as she did not meet the date of eligibility as required in Section 23(5) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, “A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.” The appellant is not eligible for assistance associated with the cost incurred from repairing her furnace because the service received for the furnace repair in December 2016 occurred before the calendar month in which the request for assistance (February 2017) was made.

As well, the ministry has noted, the appellant did not meet all the requirements found under section 57(1) of the EAPWDR, “a crisis supplement may only be provided if all three of the following eligibility criteria are met:

1. The need for the item is unexpected or there is an unexpected expense and
2. There are no alternative resources available and
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health

While the appellant satisfied the criterion numbered 2, “no other resources”, the appellant did not satisfy the other 2 criteria required. Specifically, the appellant did not supply evidence to suggest that the malfunctioning of her furnace was unexpected, nor did the appellant supply any evidence that failure to receive reimbursement of the cost of repair will result in imminent danger to her physical health.



## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, Section 1  
Employment and Assistance for Persons with Disabilities Regulation, Section 23  
Employment and Assistance for Persons with Disabilities Regulation, Section 57

## PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- Furnace repair receipt for \$412.16 dated December 8, 2016
- Letter from the appellant explaining her request for reconsideration dated February 15, 2017

The appellant is currently receiving disability assistance as a single person.

February 1, 2017 the appellant requested a crisis supplement for home repairs. Her request was denied.

February 22, 2017 the ministry received a signed Request for Reconsideration from the appellant.

February 28, 2017 the minister reviewed the appellant's Request for Reconsideration

In the appellant's Request for Reconsideration she stated that:

- She has suffered medical issues
- When her furnace broke she borrowed money from a friend to have it repaired
- She did not even think to call the ministry for help and learned from a friend at a later date that she could apply for assistance

New Evidence was submitted by the appellant March 22, 2017. The package included:

- A letter dated March 15, 2017, from the appellant's doctor explaining the appellant's recent surgery and treatment for cancer; in the Doctor's opinion, the lack of heating in the appellant's home during the month of December would have presented imminent danger to her health and recovery.
- A letter dated March 20, 2017 from the appellant explaining the need to pay her friend back the money she borrowed.
- A letter dated March 2, 2017, from the appellant's friend who lent her the money for the furnace repair requesting the funds be repaid by March 31, 2017.
- A letter dated March 20, 2017 from a person who is knowledgeable about RV repair and who has worked on the appellant's RV unit in the past. The letter further explained:
  - The home was built in 2007 with the furnace being installed at that time.
  - The furnace was clean and dust free and should be expected to last 8-10 years.
  - The circuit board malfunctioning and requiring a new regulator could not have been foreseen by regular serving and was an unexpected repair as it should last another 8-10 years.

During the hearing, the appellant:

- Shared her additional evidence noting that she felt the evidence successfully argued her case in terms of Section 57 of the EAPWDR
  - The furnace break down was unexpected;
  - She lacked the resources to pay for the repair;
  - Eviction would be imminent danger to her life.
- When asked why she had not applied for assistance in the month it had occurred, stated she

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was confused due to her medical issues and she wasn't aware that she could apply for assistance to repair the furnace.

**Admissibility of Additional Information**

The ministry did not object to the admissibility of the additional documents submitted at the hearing by the appellant but noted the information was not available to the ministry at reconsideration. Under section 22 (4)(b) of the Employment and Assistance Act the panel may admit evidence only if

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

The panel considered the handwritten note and the loan letter from the appellant's friend as information that corroborates the appellant's claim of the lack of resources. Therefore, the panel admitted this additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the Employment and Assistance Act.

The panel considered the letter from the handyman to be new information as it did not corroborate or supplement information shared at the time of reconsideration therefore did not admit it as additional information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the Employment and Assistance Act.

The panel felt the letter from the doctor explaining the appellant's health did support the appellant's claim of health issues but that the claim of imminent danger to life was additional information that did not corroborate or supplement information shared at the time of reconsideration therefore only accepted the first paragraph as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with Section 22(4)(b) of the Employment and Assistance Act.

During the hearing, the ministry stated:

- the new evidence may have made an impact on the decision making process at the time of reconsideration
- a representative would mail reimbursement information to the appellant.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated February 28, 2017 which found the appellant was ineligible for a crisis supplement for home repairs as she did not meet the date of eligibility as required in Section 23(5) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, "A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested." The appellant is not eligible for assistance associated with the cost incurred from repairing her furnace because the service received for the furnace repair in December 2016 occurred before the calendar month in which the request for assistance (February 2017) was made.

As well, the ministry has noted, the appellant did not meet all the requirements found under section 57(1) of the EAPWDR, "a crisis supplement may only be provided if all three of the following eligibility criteria are met:

1. The need for the item is unexpected or there is an unexpected expense and
2. There are no alternative resources available and
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health

### **The relevant legislation are sections 1, 23 and 57 of the EAPWDR**

Employment and Assistance for Persons with Disabilities Regulation, Section 1

#### **Definitions**

1 (1) In this regulation:

"assistance" means disability assistance, hardship assistance or a supplement;

Employment and Assistance for Persons with Disabilities Regulation, Section 23

#### **Effective date of eligibility**

23(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

Employment and Assistance for Persons with Disabilities Regulation, Section 57

#### **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.

### **Appellant's Position**

The appellant believes she has met the three criteria of Section 57 and did not meet the eligibility date requirement of Section 23 as she was confused due to her medical treatment and lack of knowledge of what assistance is available from the ministry.

## **Ministry's Position**

As the appellant submitted her request for a crisis supplement in February 2017 for a cost incurred in December 2016 she is ineligible under section 23(5) of the EAPWDR which states: "A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested."

As well the ministry also found the appellant did not meet two of the three criteria required by Section 57(1) of the EAPWDR these being:

1. "The need for the item is unexpected or there is an unexpected expense"; the appellant should be aware that a furnace is a house hold appliance and will require repairing and replacing over time. No evidence was given that the malfunctioning of the furnace was unexpected; therefore the criterion was not met.
2. "Failure to obtain the item or meet the expense will result in imminent danger to physical health"; the ministry acknowledges the appellant must repay her friend the borrowed funds but there is no evidence to indicate that the failure to receive reimbursement will result in imminent danger to her physical health, therefore the criterion was not met.

## **Panel Decision**

The legislation of the EAPWDR Section 23(5) Effective date of eligibility states, "A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested."

As the appellant had incurred the cost of a furnace repair in December 2016 and later submitted a request for a crisis supplement in February 2017 to cover the cost, the panel finds the ministry's reconsideration decision that the appellant did not meet the effective date of eligibility criteria was reasonably supported by the evidence.

The legislation of the EAPWDR Section 57(1) "a crisis supplement may only be provided if all three of the following eligibility criteria are met:

1. The need for the item is unexpected or there is an unexpected expense and
2. There are no alternative resources available and
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health

While the appellant satisfied the criterion number 2, "no other resources", at the time of reconsideration, the appellant did not satisfy the other 2 criteria required. Specifically, the appellant did not supply evidence to suggest that the malfunctioning of her furnace was unexpected, nor did the appellant supply any evidence that failure to receive reimbursement of the cost of repair will result in imminent danger to her physical health. Therefore the panel finds the ministry's determination at reconsideration that the appellant did not meet all three criteria of Section 57(1) of the EAPWDR was a reasonable application of the legislation in the circumstances of the appellant and was reasonably supported by the evidence.

## **CONCLUSION**

The panel finds that the Ministry's decision dated February 28, 2017 which found that the appellant was ineligible for a crisis supplement for the cost of a furnace repair was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the Ministry decision; the



appellant is not successful in her appeal.