

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the ministry”) Reconsideration Decision of April 27, 2017 in which the ministry determined that the appellant was ineligible for a crisis supplement for a bed because she did not meet the legislative criteria set out in Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), specifically because the ministry was not satisfied that:

- the need for the item is unexpected, and
- there were no other resources available for the family unit.

PART D – Relevant Legislation

EAPWDR Section 57 (1)

PART E – Summary of Facts

The appellant is a sole recipient of disability assistance (PWD). She receives a monthly shelter allowance of \$375 and support allowance of \$806.42. She also receives a monthly nutritional supplement of \$205.00 and a \$52 transportation supplement.

The evidence before the ministry at reconsideration included the following:

- April 19, 2017 letter from the appellant listing 6 community organizations that she approached for assistance with acquiring or purchasing a bed;
- prescription note from the appellant's family doctor (GP) printed April 4, 2017 indicating that the patient requires a mattress that will provide proper spinal support because of her existing spinal condition and anticipated future spinal surgery;
- April 11, 2017 letter from the appellant's chiropractor confirming her need for a mattress to deal with pain;
- diagnostic imaging report dated April 4, 2017;
- March 21, 2017 letter from the appellant's neurosurgeon;
- March 17, 2017 mattress quote for \$572.47 for mattress only;
- appellant's request for reconsideration submitted to the on April 19, 2017.

Information received after Reconsideration

The appellant filed a Notice of Appeal dated May 11, 2017. She enclosed a copy of her request for reconsideration and handwrote in Section 3: "Attached Exhibit A (1) and (2) and B". Presumably the following documents were filed after reconsideration:

1. prescription note from the GP printed May 11, 2017 indicating that it is critical that the appellant acquire a supportive mattress to avoid further spinal deterioration and pain;
2. October 30, 2014 medical report (employability) signed by the GP;
3. statement of monthly recurring expenses totaling \$1,009;
4. May 2017 cell phone statement indicating that the appellant's charges are \$39.20 per month;
5. May 2017 internet billing statement of \$50.40;
6. insurance invoice for the period August 25, 2016 – August 25, 2107 with corrected monthly payment amount of \$30.47;
7. prescription receipt for \$20.27 for sleeping medication dated May 3, 2017;
8. taxi saver receipts dated February 27, 2017 and April 21, 2017;
9. appellant's bank activity statement for the period December 1, 2016 – April 30, 2017;
10. May 1, 2017 letter from an eye clinic confirming that the patient underwent laser refractive surgery on April 27, 2017 in another city and remained there until May 6, 2017;
11. June 8, 2017 letter from the appellant to the EAAT noting that in addition to her monthly recurring expenses she now has to pay a \$100 monthly eye exam fee and \$80 per month for eye drops, enclosing a \$100 receipt for a post-operative visit.

The panel considered the documents received with the appellant's notice of appeal, and determined that Documents 1 – 9 were admissible under Employment and Assistance Act Section 22 (4) as evidence in support of the information before the ministry at reconsideration. Documents 1 and 2 relate to the appellant's medical need for a mattress, and Documents 3 – 9 provide additional detail regarding the appellant's monthly expenses. The issues of the appellant's health and her available resources were considered by the ministry at reconsideration.

The panel did not admit Documents 10 and 11 because they refer to a medical condition (post-surgical eye care) that was not before the ministry at reconsideration, and the eye care-related expenses she now incurs had not arisen prior to reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision which determined that the appellant was ineligible for a crisis supplement for the appellant was ineligible for a crisis supplement for a bed because she did not meet the legislative criteria set out in Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), specifically because the ministry was not satisfied that:

- the need for the item is unexpected, and
- there were no other resources available for the family unit.

The applicable legislation is set out in Section 57 (1) of the EAPWDR:

EAPWDR

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.

The appellant argues that her need for a new bed, subsequently amended by the appellant to a mattress only, was unexpected because she did not realize that she was further damaging her back by sleeping on an air mattress, and did not anticipate that the air mattress would develop a leak. She also argues that she has no available resources to pay the cost of the mattress.

The ministry's position is set out in the reconsideration decision. The ministry argues that the appellant

has been sleeping on the floor or an air mattress for 2 years, and should have anticipated that she would need a new bed to replace the one that remains in her boyfriend's possession. The ministry also argues that the appellant's support allowance is intended to cover purchases of furniture and that there was insufficient evidence to demonstrate that the appellant lacked the resources to budget for the gradual purchase of a bed.

Panel Decision

EAPWDR Section 57 (1) sets out the 3 criteria which must be met before a crisis supplement can be provided:

1. the need for the item must be unexpected;
2. there are no other resources available to meet obtain the needed item; and
3. failure to obtain the item will result in imminent danger to the physical health of any person in the family unit.

In the reconsideration decision the ministry acknowledged that Criterion 3 had been met because her GP and other medical professionals have indicated that sleeping on anything other than a supportive mattress will exacerbate the severe spinal condition already experienced by the appellant, but found that Criteria 1(unexpected need) and 2 (no other resources available) had not been met. The panel will deal with these criteria separately.

1. Unexpected Need

On March 3, 2017 the appellant attended at a ministry office and requested a crisis supplement for a bed. She told the ministry worker that she had been sleeping on the floor for 2 years. The appellant indicates that she has in fact been sleeping on an air mattress, which has now developed a leak, and that she did not know that she was risking further damage to her back by not sleeping on a supportive mattress.

The panel finds that the ministry reasonably determined that the need for the bed was not unexpected because the appellant should have realized two years ago that she would need to replace the bed that had been taken by her former boyfriend.

The panel therefore finds that the ministry reasonably determined that the criterion set out in EAPWDR 57 (1) (a), i.e., that the need for the item is unexpected, was not met.

2. No Alternate Resources Available

The panel notes that the ministry originally determined that this criterion had been met by the appellant, as stated by the ministry in Section 2 of the request for reconsideration (Page 41 of the appeal record). At reconsideration the ministry offered no explanation as to why it had reversed this decision.

The appellant submitted detailed information to support her argument that her daily living expenses leave her with no additional funds with which to budget for a mattress that will provide the support that her GP and chiropractor deem necessary. At reconsideration the ministry acknowledged that if the appellant fails to obtain a supportive mattress she will risk imminent danger to her physical health. The appellant sought assistance in obtaining a bed/mattress from 6 community agencies, and was partially successful in that she has obtained a bed frame, and now requires only a supportive mattress at a cost of \$572.54.

Because the appellant provided evidence that she lacks the financial resources to budget for a supportive mattress from her support allowance, and made several attempts to obtain assistance from community organizations the panel finds that the ministry did not reasonably determine that the appellant had available resources to purchase the item she requested.

The panel therefore finds that the ministry did not reasonably determine that the criterion set out in EAPWDR 57 (1) (a) was not met, i.e., that the appellant had no available resources.

Conclusion

Although the panel finds that the ministry was not reasonable in determining that the appellant had resources available to purchase the mattress (Criterion #2), the panel finds that the ministry reasonably determined that the appellant's need for the mattress was not unexpected (Criterion #1). The panel therefore finds that the ministry's determination that the appellant was ineligible for a crisis supplement for a mattress because the necessary criteria in EAPWDR Section 57 (1) were not met is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in her appeal.