

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated April 5, 2017, finding the appellant is not eligible to receive a crisis supplement for repair of her snow plough because she does not meet two of the three legislated criteria found in section 57 of the EAPWDR in that this was not an unexpected expense and failure to provide the crisis supplement will not result in imminent danger to the appellant's physical health.

PART D – Relevant Legislation

The relevant legislation is section 57 of the EAPWDR.

PART E – Summary of Facts

The appellant is in receipt of disability assistance as a single person.

The appellant lives in a remote area in a house heated by a pellet stove to which the only access is along a ¼-mile-long easement road with a steep gradient which she is responsible for maintaining. In the winter the appellant ploughs the road with an older-model small pick-up truck with a plough attachment.

In February 2017, the appellant's pellet stove motor broke down and she borrowed money from her sister to replace it. Also in February, the appellant's pick-up truck sprang a leak of coolant, overheated and blew its head gasket, meaning that it needs repairs in the range of about \$1300 to \$1700 in order to operate.

On February 22, the appellant filed a request with the ministry for a crisis supplement for a new motor for her pellet stove and repairs to her snow plough. These requests were denied, and on March 15, the appellant filed a Request for Reconsideration. The ministry denied the request for snow plough repairs, but neglected to address the issue of the motor for the pellet stove.

As part of her appeal submission the appellant submitted a number of photographs of the easement leading to her house in order to illustrate the gradient, condition and length of the easement. These photographs show that the easement is relatively steep and unpaved.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive a crisis supplement for repair of her snow plough because her request does not meet two of the three legislated criteria found in section 57 of the EAPWDR in that this was not an unexpected expense and failure to provide the crisis supplement will not result in imminent danger to the appellant's physical health.

The relevant legislation is section 57 of the 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, or
 - (ii) removal of a child under the *Child, Family and Community Service Act*.

This appeal was held by written hearing by consent of the parties in accordance with section 22(3)(b) of the *Employment and Assistance Act*.

Admissibility of New Information

The ministry did not object to the new information provided by the appellant in the form of a number of photographs of the easement.

Section 22(4) of the *Employment and Assistance Act* states that the panel is empowered to admit as evidence only "the information and records that were before the minister when the decision being appealed was made" and "oral or written testimony in support of" the record of the ministry decision. If the additional evidence substantiates or corroborates the information and records before the minister at the reconsideration stage, the evidence should be admitted; if it does not, then it does not meet the test of admissibility under s. 22(4)(b) of the *Employment and Assistance Act* and should not be admitted.

In this case, the photographs are illustrative of the written information that the appellant provided to the ministry as part of her reconsideration submission. As such, they are not "new" but provided as supporting evidence to what was before the ministry at the time of the reconsideration. On this basis, the panel finds that the additional evidence provided by the appellant is admissible.

The Appellant's Position

The appellant's position is that the expense was unexpected because she could not have foreseen that her snow plough would overheat and need repairs. The appellant also maintains that failure to provide the crisis supplement would result in imminent danger to her physical health because without the snow plough, as a person with disabilities, getting up and down the easement road without the plough to clear it is hazardous and could result in injury to her.

The Ministry's Position

In its appeal submission, the ministry acknowledged that it had failed to address the issue of the motor for the pellet stove matter in its reconsideration decision and would be preparing a separate reconsideration decision.

As regards the issue of the snow plough repairs, it relies on its reconsideration decision. In that decision the ministry found that the repairs to the head gasket were not unexpected because it was reasonably foreseeable that if the snow plough overheated, it would be damaged and need repairs. The ministry also found that there was no indication that the appellant's physical health was in imminent danger.

The Panel's Analysis

Motor for the Pellet Stove

The panel accepts the ministry's admission that it failed to consider the issue of the motor for the pellet stove and will be preparing a separate reconsideration decision for that matter. Accordingly, this appeal concerns the matter of the snow plough repairs only.

Unexpected Expense

In its reconsideration decision the ministry states: "there is nothing unexpected about the head gasket needing replacement if the machine becomes overheated". The appellant argues that this is an unexpected expense because she could not have foreseen that her pick-up truck would suddenly spring a leak of coolant, overheat and blow the head gasket. The panel agrees with the appellant that she could not have anticipated this expense in a way that makes it an expected expense. The ministry's interpretation of the legislation in this instance is not reasonable.

Alternate Resources

The ministry found in its reconsideration decision that the appellant met this criteria so that it is not in question in this appeal.

Imminent Danger to Physical Health

The ministry's position is that there is insufficient evidence to establish that the appellant is facing imminent danger to her physical health. The appellant's position is that without the pick-up she is in danger of falling while walking the easement road. While she did provide a number of photographs of the easement showing that it is relatively steep and unpaved, the appellant did not provide any evidence that there are no alternative means for her to travel on the easement or the likelihood of such a fall. Given this, the panel finds that it was reasonable for the ministry to conclude that there was insufficient evidence before it that the appellant's physical health was in imminent danger.

Conclusion

Accordingly, the panel finds that the Ministry's decision to deny the appellant a crisis supplement for repairs to her snow plough was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.