

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated June 7, 2017 in which the Ministry of Social Development and Social Innovation (the “ministry”) denied the appellant a crisis supplement to purchase furniture (a bed) because the request did not meet the criteria in the Employment and Assistance Regulation (EAR), Section 59. The ministry determined the appellant did not meet the requirement of Section 59 because in the ministry’s opinion:

- The appellant did not submit sufficient information to determine the need for the bed was an unexpected expense;
- The appellant did not provide information indicating there were no alternate resources available to the appellant in order to meet the need; and
- The appellant’s failure to obtain a queen size bed would not result in imminent danger to the appellant’s physical health.

## PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 59

## PART E – Summary of Facts

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

- The appellant is in receipt of income assistance as part of a couple;
- The appellant requested a crisis supplement for furniture on April 10, 2017 which was recorded by the ministry worker as a request for a queen size bed. The ministry record notes the double bed he has is not big enough for him and his spouse because, his medical condition causes him pain when they share their double bed and a larger bed (queen size) would permit him to share a bed with his spouse without pain;
- The appellant's statement that he has been suffering pain for two months and that his doctor expects him to be in recovery for six months;
- A copy of a report to the appellant's physician from a medical imaging clinic, which describes the appellant's medical condition, but which does not provide any opinion about any potential immediate danger to the appellant's physical health;
- A request for reconsideration in which the appellant claims his physical health is "in imminent danger".

At the hearing the appellant told the panel:

That he must have been misunderstood by the ministry worker because he was not asking for a larger bed. He stated that he was really looking for a new mattress for his existing bed. He also told the panel that he had approached the Salvation Army about getting a mattress but was informed by them that they no longer provide mattresses because the ministry is supposed to do that. He also contacted a church for a mattress but was unsuccessful in acquiring one.

At the hearing the ministry told the panel:

The issue is not the size of the mattress that the appellant is asking for. The request does not meet the three tests set out in the EAR, section 59. Namely, the request was not considered an unexpected expense because; they were not made aware of any change that required the immediate purchase of a new mattress, that they were not made aware of the appellant's attempts to acquire the mattress through other resources and, in the ministry's opinion an immediate threat to the health of the appellant was not established. The ministry representative emphasized that all three conditions need to be met before a person is considered eligible for a crisis supplement.

New information:

The panel noted the appellant's attempts to acquire a mattress through other sources as information which was not shared with the ministry at the time that the decision was made and therefore did not admit it because it was new information which was not in support of information previously submitted. The panel therefore did not admit this new evidence in accordance with section 22(4) of the *Employment and Assistance Act* (the "EAA").

The panel also note that the appellant clarified he was not seeking a new queen size bed and conceded that perhaps the information was somehow misunderstood. He stated what he really wanted was a replacement mattress for his current bed which would allow him to sleep in the same bed as his wife without experiencing pain. The panel noted this information was a clarification of contrary information which the ministry was working with and have admitted it as evidence in support of the information before the ministry in accordance with section 22(4) of the EAA.

The Legislation (Section 59 of the EAR)

***Crisis supplement***

**59** (1) *The minister may provide a crisis supplement to or for a family unit that is eligible for income 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.*

*(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.*

*(3) A crisis supplement may not be provided for the purpose of obtaining*

*(a) a supplement described in Schedule C, or*

*(b) any other health care goods or services.*

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## PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision to deny the appellant's request for a crisis supplement to purchase furniture.

The appellant submits that his medical condition precludes him from sleeping in his current bed and failure to obtain a new mattress places his health in imminent danger therefore section 59 of the EAR has been met and the ministry is wrong to deny him a new mattress.

The ministry's position is that the appellant's request for a crisis supplement to purchase furniture cannot be approved because the appellant has to meet all three criteria in section 59 of the EAR to be eligible, namely:

1. The need for the item is unexpected or there is an unexpected expense.
2. There are no alternate resources available to the appellant.
3. Failure to obtain the item or meet the expense will result in imminent danger to physical health or the removal of a child under the *Child, Family and Community Service Act*.

The ministry submits the appellant has not indicated that anything unexpected has occurred which necessitated purchasing a larger bed or new mattress and the appellant has not provided proof he has tried to access any alternative resources within the community or that he has sought assistance from friends or family, therefore; the ministry is unable to conclude that the appellant has exhausted available resources. Finally, the ministry does not accept the appellant's statement that his health will be in imminent danger if he does not acquire a larger mattress because, they assert he has the option of sleeping on other surfaces within his home.

The panel notes that the appellant has a double bed currently but sleeping in that bed with his spouse is aggravating his medical condition. However, the panel does not have sufficient evidence to conclude that this is creating a situation which can be reasonably assessed as creating an imminent danger to the physical health of the appellant as required by section 59(1)(b)(i) of the EAR. The panel considered the fact that the appellant's current condition is painful and may preclude him from sharing his current bed with his spouse, and note that his physician has stated the appellant is in recovery which should last the next six months. The panel finds based on the evidence it would be reasonable to conclude the current situation may resolve once the recovery period is over. While not determinative of the issue, the panel notes, the appellant's physician has not offered an opinion that failure to acquire a larger bed or a new mattress for the current bed will place the appellant's health in imminent danger. Nor was there any other source of information or evidence before the ministry to confirm the appellant's assertion that there was imminent danger to his physical health if he did not acquire a larger bed or different mattress.

The panel finds the ministry can only give persons a crisis supplement if all three conditions in the legislation (the law) have been met. In this case, the panel finds it does not matter if the appellant was seeking a queen size bed or a new mattress for his existing bed, the legislative test is the same. Such expenses can only be considered if there is an unexpected event or circumstance which created the need for a new or replacement mattress. Normal wear and tear on a mattress which leads to the need to replace it is not considered unexpected. Secondly, the information shared at the hearing about approaches the appellant made to the Salvation Army and a church were not shared with the ministry at the time the decision was made, and so, it would not be reasonable to expect them to know this. Nor can it be concluded that this fully satisfies the requirement to utilize other

resources available to the appellant. For example, there was insufficient information about what other financial resources are available to the appellant to purchase the bed himself. Lastly, while the panel acknowledges and accepts that the appellant is experiencing pain when sleeping on his current mattress, there is insufficient evidence to corroborate his assertion that this situation poses an imminent danger to his physical health.

The panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore confirms the ministry's decision.

The appellant is not successful in the appeal.