

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 4, 2017, which held that the appellant was not eligible for a crisis supplement because he had not demonstrated that all three legislative criteria in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* had been met.

The ministry was satisfied that the appellant had demonstrated that the need was unexpected. The ministry also found that failure to obtain funds to run the appellant's generator would place the appellant's physical health in imminent/immediate danger. However, the ministry found that the appellant had not demonstrated that there were no resources available to cover the cost.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57

PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the *Employment and Assistance Regulation*.

The information before the ministry at reconsideration included the following:

- The appellant contacted the ministry on June 13, 2017 to request a supplement
- The appellant's residence had been flooded since May 6, 2017
- The Red Cross had accommodated the appellant's family in a hotel for 3 weeks until their services had been exhausted
- The appellant's family had been back home for 3 weeks
- There is no power at the appellant's home and the appellant has had to run a generator 24/7 since returning home
- The appellant cannot go without power as he relies on a medical device
- Power is also required to ensure that the appellant can properly store food
- The appellant has accessed many community resources and sought assistance from family and friends
- The appellant requested \$600 to cover gas used and another week of gas
- The supervisor approved \$40 per day for 7 days (June 14-20, 2017)
- The appellant's request for reimbursement for costs to date was not approved

Request for Reconsideration

The appellant's Request for Reconsideration dated June 21, 2017, which stated:

- The ministry did not approve enough funding for June 2017 to being with;
- The ministry thought the funds would suffice;
- The power is still not working and it may out be another month; and
- The appellant cannot afford to run the generator to keep medication and operate a medical device.

Notice of Appeal

In the Notice of Appeal dated July 6, 2017, the appellant stated: *my reason for appeal is a medical reason. We need to run a generator for my fridge to keep my [medication] and power at night for [medical device]. Its not just gas we needed it was propane for cooking and dishes. Also laundry needed to be done. Every item in our home was contaminated with terrible odors. The generator was donated. [...] Power was restored on June 30/17 @ 5 pm.*

At the Hearing

Appellant

The appellant did not attend the hearing.

Ministry

The ministry relied on its reconsideration decision.

Admissibility of Additional Information

The panel determined that the information provided by the appellant in the Notice of Appeal was admissible under s. 22(4) of the EAA as it consisted of reiteration and elaboration of material presented in the Request for Reconsideration, therefore the information is in support of the information and records before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry reconsideration decision of dated July 4, 2017, which held that the appellant was not eligible for a crisis supplement because he had not demonstrated that all three legislative criteria in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* had been met.

The ministry was satisfied that the appellant had demonstrated that the need was unexpected. The ministry also found that failure to obtain funds to run the appellant's generator would place the appellant's physical health in imminent/immediate danger. However, the ministry found that the appellant had not demonstrated that there were no resources available to cover the cost.

The issue on appeal, therefore, is whether the ministry's determination that the appellant had not demonstrated that there were no resources available to cover the cost was a reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

The legislation provides:

Employment and Assistance for Persons with Disabilities Regulation

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*](#).

(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.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit;

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i) the family unit's actual shelter cost, and

(ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

CRISIS SUPPLEMENT

Section 57(1) of the EAPWDR allows the minister to provide a crisis supplement to a family unit that is eligible for disability or hardship assistance if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The EAPWDR requires that the following three criteria be met: 1) the item or expense is unexpected, 2) there are no resources available to meet the expense, and 3) failure to meet the expense will result in imminent danger to physical health or removal of a child.

In this appeal, the first and third criteria have been met and are not in issue. The only criterion at issue in this appeal is the availability of resources to meet the expense.

The panel notes that, in presenting its position at the hearing, the ministry clarified its position that the reimbursement sought for a portion of the month of May is not eligible in accordance with 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.

The panel finds, due to its decision (set out below) on the availability of resources criterion, that a determination in relation to the section 23(5) clarification is not necessary.

No Resources

Section 57(1) of the *EAPWDR* requires an applicant requesting a crisis supplement to satisfy the minister that he or she is unable to meet the expense or obtain the item because there are no resources available to the family unit.

The ministry's position is that the appellant has not demonstrated that there are no resources available to the family unit. The ministry noted that the appellant stated that he had used cash to pay for gas and did not keep receipts. In the reconsideration decision the ministry determined that, because the appellant had funds to pay cash for the gas for the generator prior to June 14, 2017, this requirement had not been met.

The appellant's submissions, as set out in the Request for Reconsideration and Notice of Appeal, do not directly address this criterion. The appellant's reconsideration submission does indicate that the funding provided by the ministry was not enough to begin with and the appellant cannot afford to run the generator to keep medication refrigerated and medical equipment working. The reasons for appeal reiterate the argument that the generator must be run in order to keep medication and use a medical device. The panel finds that these submissions do not speak directly to the availability of resources to meet the need for fuel expenditures before June 14, 2017.

The panel finds, in the absence of information to the contrary, the ministry's determination that the appellant has not demonstrated that there are no resources available to the appellant's family unit was reasonable.

Conclusion

The panel finds that the ministry's reconsideration decision, which held that the appellant was not eligible for a crisis supplement for gas purchased for his generator before June 14, 2017 because he did not meet all of the legislated criteria in section 57 of the EAPWDR, is a reasonable application of the legislation in the circumstances of the appellant and confirms the ministry's reconsideration decision. The appellant is not successful on appeal.