

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 20, 2017, which found that the appellant was not eligible for a crisis supplement to pay outstanding rent because he had not demonstrated that all four legislative criteria in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* had been met.

The ministry determined that:

- The appellant was not eligible for June 2017 disability assistance;
- The appellant had not demonstrated that the need was unexpected;
- The appellant had not demonstrated that failure to obtain funds would place the appellant's physical health in imminent/immediate danger or result in the removal of a child; and
- The appellant had not demonstrated that there were no alternate 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 information before the ministry at reconsideration included the following:

- The appellant is in receipt of disability assistance as a sole recipient (\$1073)
- The appellant's CPP is deducted from assistance each month (\$583.03)
- In April 2017 the appellant received Employment Insurance (\$955.00) which was reported in May and deducted from the appellant's June assistance
- The EI and CPP amounts totaled more than the assistance amount making the appellant ineligible for June 2017 assistance
- On May 26, 2017 the appellant indicated that he had spent the EI benefit because he did not know that it would be deducted from his assistance and he owed \$650 in past due rent plus June rent
- A receipt for \$650 dated April 26, 2017 was provided with the notation: *partial payment of outstanding rent*
- A BC Hydro bill dated May 9, 2017 showing a credit of \$30.61
- On June 1, 2017 the appellant was advised that he was not eligible for June assistance
- The appellant requested a crisis supplement to pay his outstanding rent
- The request was denied

Request for Reconsideration

The appellant completed two Request for Reconsideration forms, both dated June 7, 2017. The combined content of these forms is as follows:

- *Denied June assistance for shelter allowance is based on how I was receiving medical EI because I legally had to apply for it.*
- *Was told it would not affect disability assistance by Service Canada worker even though it did.*
- *Now landlord is threatening eviction because rent has not been paid and money from EI was used on other bills.*
- *I am applying for a repayable grant for June's rent.*
- *It is stating that I am not receiving/eligible for disability even though I am still eligible for the benefits offered on PWD, only because I was receiving medical EI and up until that time I was receiving full disability assistance.*
- *All other resources have been fully exhausted.*
- *Was told amount received from Medical EI would not be deducted but it was, now landlord is threatening eviction rent for these months is not paid.*

Notice of Appeal

In the Notice of Appeal dated June 27, 2017, the appellant stated: *Money received from EI should not be considered as unearned income since I had to be employed at one point to get it, so I earned it. I disagree with not receiving a crisis supplement for June's rent.*

Appeal Submissions

Appellant

In the appeal submission, the appellant states that he wishes to appeal the decision not to issue a crisis supplement to cover June 2017 rent. He has included a 10 Day Notice to End tenancy dated June 30, 2017, which indicates an outstanding amount of \$1075 for unpaid rent from February 2017 to June 2017. The appellant argues he was not informed by Service Canada that EI would be deducted dollar for dollar from his monthly PWD amount. He argues that he should not be accountable for something he was not aware of. As well, the appellant argues that he was informed on June 2 at the local MSD office that his rent would be covered automatically by MSD but that never happened.

Ministry

The ministry's appeal submission indicated that the ministry would rely on its reconsideration decision. The ministry's appeal submission also clarified that while the reconsideration decision states that there all three criteria must be met for a crisis supplement to be issued, there are in fact four criteria and the appellant has not met any of the four.

Admissibility of Additional Information

The panel determined that the information provided by the appellant in the Notice of Appeal and Appeal Submission 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.

The panel determined that, as analysis and decision on all four legislated criteria have been included in the reconsideration decision, the information provided by the ministry in its Appeal Submission was merely a clarification.

PART F – Reasons for Panel Decision

In its reconsideration decision, the ministry determined that: the appellant was not eligible for June 2017 assistance; the appellant had not demonstrated that the need was unexpected; there was insufficient evidence that failure to obtain funds would place the appellant's physical health in imminent/immediate danger or result in removal of a child; and the appellant had not demonstrated that there were no alternate resources available to cover the cost. The issue under appeal is whether the ministry's determination that the appellant was not eligible for a crisis supplement because he had not demonstrated that all four legislative criteria in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* had been met 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. In addition to eligibility for disability or hardship assistance, 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 ministry determined that none of the four legislated criteria had been met.

Eligibility

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.

The ministry determined that the appellant was not eligible for June 2017 assistance because the amount of EI (\$955) and CPP (\$583.03) received were greater than the amount of assistance (\$1073) the appellant would be eligible for in June 2017. The appellant does not argue that the ministry has made an error in assessing his eligibility. Rather, he argued that he was not informed by Service Canada that medical EI would be deducted from his disability assistance and he should not be held accountable for something he was not aware of. The panel notes that the appellant states he wasn't aware that the deduction would take place. However, the panel finds that this does not impact eligibility and the panel concludes that the ministry's decision was reasonable.

Unexpected

Section 57(1) of the *EAPWDR* requires an applicant requesting a crisis supplement to satisfy the minister that the family unit requires the supplement to meet an unexpected expense or obtain an unexpectedly needed item.

The ministry determined that the criterion requiring that the need for the item or expense be unexpected was not met. In reaching this conclusion, the ministry noted that rent is not an unexpected expense. Further, the ministry noted that the appellant's rent had been in arrears before the EI funds had been deducted from his assistance. The ministry also considered that the total rent outstanding had not been indicated. With the Appeal Submission, the appellant has provided a copy of a 10 Day Notice to End tenancy dated June 30, 2017, which indicates an outstanding amount of \$1075 for unpaid rent from February 2017 to June 2017. The appellant argues he wasn't informed of the deduction of EI from PWD benefits by Service Canada and he should not be held accountable for something he was not aware of. The appellant also argues that EI should not be considered unearned income. Further the appellant argues that the local MSD office informed him on June 2 that his rent would be paid and this did not happen.

The panel notes that the appellant did not raise the argument that MSD informed him on June 2 that his rent would be paid automatically in either the Request for Reconsideration or the Notice of Appeal, both of which were submitted after June 2. The panel acknowledges that the appellant may not have anticipated that the EI benefits would be deducted from his June PWD benefits. However, the panel notes that the EAPWDR at section 1 specifies that employment insurance is unearned

income. As well, the panel notes that the Notice to End Tenancy indicates that outstanding rent is owed from February 2017 to June 2017 and that the amount outstanding is more than the appellant's monthly rent. The panel further notes that in the Request for Reconsideration the appellant states: *landlord is threatening eviction since rent for these months is not paid*. The panel notes that a crisis supplement is not intended to cover shortfalls in meeting monthly expenses. As such, the panel finds that the ministry's determination that the expense was not unexpected was reasonable.

Imminent Danger

Section 57(1) of the *EAPWDR* requires an applicant requesting a crisis supplement to satisfy the minister that failure to meet the expense or obtain the item will result on imminent danger to the physical health of any person in the family unit or removal of a child.

The ministry determined that there was insufficient evidence to support a probability that the failure to obtain funds to pay outstanding rent would place the appellant's physical health in imminent/immediate danger or result in the removal of a child. The appellant has not addressed this criterion in the materials submitted at reconsideration or on appeal. The panel notes that the appellant has submitted a Notice to End Tenancy, but has not provided information or argument that eviction, should it occur, will place his physical health in imminent danger or result in the removal of a child. The panel concludes that the ministry's determination that there is insufficient evidence to demonstrate that this criterion has been met is reasonable.

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 other resources available to the family unit.

The ministry's position is that the appellant has not demonstrated that there are no other resources available to the family unit. The ministry argued that the appellant has been provided with funds for the purpose of paying for shelter and utilities. The ministry found that there is insufficient evidence to demonstrate that the appellant would not be able to pay for shelter costs if he had not diverted the EI benefits for other purposes or had not chosen to rent accommodations that far exceeded his shelter allowance.

The appellant's submissions, as set out in the Request for Reconsideration state: *All other resources have been fully exhausted*. As well, the appellant states that the EI money was used for other bills. The panel notes that the appellant has explained that the EI funds were used for other bills but has not provided information in relation to the resources he has accessed or sought assistance from in order to meet the rental expense. Further, the panel, as noted by the ministry, that the appellant's benefits are intended to cover shelter costs. The panel finds the ministry was reasonable when it determined that this criterion was not met.

Conclusion

The panel finds that the ministry's reconsideration decision, which held that the appellant was not eligible for a crisis supplement for rent 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.