

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated August 16, 2017 which found that the appellant is not eligible for a crisis supplement to purchase furniture as the appellant did not meet two of the required criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry was not satisfied the evidence established that:

- The need for the item or expense is unexpected; and,
- There are no alternative resources available to obtain the item or meet the expense.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)– Section 57
Employment and Assistance for Persons with Disabilities Act (EAPWDA)– Section 5

PART E – Summary of Facts

The appellant is a “sole recipient” of assistance under Persons With Disability (PWD) status.

July 5, 2017 the appellant requested a crisis supplement for furniture. The appellant stated:

- she has fungal sinusitis
- she has had surgery for this
- she requires a bed that is not on the floor

JULY 10, 2017 the appellant contacted the ministry stating:

- her futon was cheap, worn out, lumpy and uncomfortable and that she needed a new bed

July 17, 2017 the appellant submitted quotes for a new bed

July 18, 2017 the appellant’s request was denied and the appellant requested a reconsideration of the decision

August 4, 2017 the minister received the appellant’s Request for Reconsideration

August 16, 2017 the minister reviewed the appellant’s Request for Reconsideration, the request was denied

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

- Request for crisis supplement form dated June 30, 2017 which noted
 - Request was for: bed and frame
 - Unexpected expense: proper bed required due to medical issues
 - What is the danger to health and/or safety: bed is required for good night sleep
 - Whether crisis occurred in the calendar month: no response
 - When furniture is required: ASAP
 - Alternative resources: no response
 - Reason for critical: futon is breaking down
- Five quotes from local businesses for a new bed
- A doctor’s note dated July 31, 2017 which stated:
 - the appellant was in to review her past and present symptoms related to her significant sinus problems that has required extensive surgery to try improve her pain and congestion
 - presently she is using a futon which has been starting to cause problems for sinus issues as well as causing problems with neck and back pain
 - he (the doctor), supports the appellant getting a new mattress and box-spring with a hypoallergenic cover to decrease the irritant load for her sinuses.
 - a used mattress would not be recommended due to concerns about ongoing sinus irritants

In the appellant’s Request for Reconsideration, the appellant wrote:

- she had been to the doctor for consultation
- 2 surgeries with ongoing visits to specialists
- she needs to be allergy free to reduce the chances of the disease re-occurring

In the appellant's Notice of Appeal, the appellant wrote:

- she was given different information by two different people (at the local ministry office)
- she was told to get a doctor's note
- you are dealing with a person with disabilities

At the hearing, the appellant stated:

- she has been sleeping on a cheap futon for three years
- had problems with communications with front desk personnel at the ministry office as she was told different things to do each time
- she hadn't realized the futon was not good for her condition as they are not constructed under the same health protection standards as are common with a normal mattress

New Evidence given by the appellant during the hearing included:

- as she was told by the ministry she should budget for a bed the appellant stated she budgets rent at \$675, food \$200, \$50 for transportation and internet for \$90, a total of \$1015 from a monthly assistance of \$1133 therefore, does not have enough to budget for a bed
- mother tries to help but only earns just over \$16 an hour
- she called the woman's transition center for help to get a bed
- she approached a local bed store (as recommended by a ministry clerk) for a quote in reference to a bed program for those in need

Admissibility of New Evidence

- 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 (EAR)* and should not be admitted.
- The panel finds as the new evidence given by the appellant during the hearing did not substantiate or corroborate the information and records that were before the minister at the reconsideration stage, the evidence is not admitted as it does not meet the test of admissibility under section 22(4)(b) of the EAR.

At the hearing, the ministry representative stated:

- the first request made by the appellant stated all three criteria were not met and that the Reconsideration Decision accepted "imminent danger to health" as acceptable in the case of the appellant but that the appellant still did not meet two of the required criteria

PART F – Reasons for Panel Decision

Panel decision:

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for a crisis supplement to purchase furniture, was reasonably supported by the evidence or was a reasonable application of the applicable regulation in the circumstances of the appellant. The ministry found that the evidence does not establish that the appellant met two of the criteria for allowing a crisis supplement as set out in Section 57 (1) of the EAPWDR.

The relevant legislation is as follows:

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](#).

The ministry in the reconsideration decision accepted that the appellant's situation did place her in imminent danger to her health as per Section 57 (1) (b) (i) of the EAPWDR but determined she did not meet the criteria of an Unexpected Expense as per Section 57 (1)(a) or Alternative Resources Section 57 (1) (a) of the EAPWDR.

Section 57 (1)(a) of the EAPWDR- Unexpected expense

The ministry's position is that the appellant should expect a bed to wear out over a period of time and therefore should budget for a replacement.

The appellant's position is that she did not realize the bed she had purchased, a "cheap" futon, would be detrimental to her health therefore it was unexpected that she would have to replace it to address her health concerns.

The panel finds that the ministry was not reasonable in its decision to conclude that the appellant should have budgeted for a replacement mattress as her medical condition, as per the doctor's letter, states the appellant is presently "using a futon which has been starting to cause problems for sinus issues" and therefore "requires a new bed and box spring".

Section 57 (1)(a) of the EAPWDR- no resources available to obtain the item

The ministry's position is there was insufficient evidence supplied by the appellant to determine if alternative resources were available to the appellant.

The appellant's position is she does not have enough funds to budget for a bed and that alternate resources were accessed but that she had not communicated this information to the ministry in a written format, rather, she had explained the lack of resources to a ministry clerk and had assumed this information would be recorded in her file.

Although communication issues were a concern for the appellant throughout the application process for a crisis supplement, it is the responsibility of the appellant to complete all forms fully to communicate the facts of their situation and their actions. The crisis supplement information form the appellant was asked to submit on June 30, 2017, which she said was completed in the ministry office with the assistance of a ministry employee is blank under the headings: "Alternative resources explored" and "whether or not the crisis occurred in this calendar month". The panel finds as there was insufficient evidence in terms of no resources being available, the ministry was reasonable in its decision to conclude the appellant had not exhausted all alternate resources available to meet her need; therefore, the ministry was reasonable to conclude the criterion under section 57 (1)(a)- no resources available, of the EAPWDR, had not been met.

Conclusion

The panel finds the appellant did not meet all three criteria required in Section 57 (1) of the EAPWDA, therefore finds that the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement pursuant to in Section 57 (1) of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in her appeal.