

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision dated April 6, 2018 in which the ministry determined that the appellant is not eligible for a crisis supplement for reimbursement of the purchase of a furnace because he failed to meet all of the eligibility criteria set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) subsection 57 (1). Upon reconsideration the ministry determined that two of the criteria in Section 57 (1) were met, namely that the appellant had no alternate resources available and that failure to obtain the item would result in imminent danger to the appellant’s physical health. However the ministry was not satisfied that the evidence established that the supplement was required to meet an unexpected expense or to obtain an item was unexpectedly needed.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57 (1)

PART E – SUMMARY OF FACTS

The appellant is a single person in receipt of disability assistance (PWD).

Information before the Ministry at Reconsideration

The information before the ministry at reconsideration included the following:

- appellant's request for reconsideration submitted to the ministry on March 21, 2018, with Section 3 "Reason for Request for Reconsideration" completed by the appellant and summarized as follows:
 - the need for the furnace was unexpected because weather conditions fell below seasonal norms and the oven and space heater, which usually had kept the mobile home warm enough, were unable to keep the appellant's mobile home warm;
 - the pipes froze and could not be thawed out because there wasn't enough heat in the mobile home;
 - the oven element had been replaced once during the winter;
 - the furnace had not worked for 8 years and the appellant was unable to find replacement parts;
 - he has no available resources to purchase the furnace. As a result his parents took out a bank loan and purchased the furnace in his father's name in order to qualify for a replacement rebate from the local utility;
 - his physical health is imminently endangered due to low heat in the mobile home. Between November 18, 2017 and January 31, 2018 he required 3 admissions to hospital which resulted in his inability to find appropriate heat source suppliers and complete paperwork required by the utility. He was sick all winter, which precluded him from completing necessary paperwork requested by the ministry;
 - his electricity bill went up from \$79 per month last year to \$169 per month this year.
- furnace replacement rebate application form dated January 19, 2018;
- invoice from furnace supplier dated January 18, 2018 indicating that a furnace and roof kit were installed at the appellant's address on the same date at a cost of \$5,053 including parts and labour. The words "paid in full" were written on the invoice.

Information Submitted after Reconsideration

Following reconsideration the appellant submitted a two-page handwritten document, undated but received by the Employment and Assistance Appeal Tribunal office on April 30, 2018, containing the following information:

- for the past 8 years he has been able to heat his mobile home by using the oven and space heater but due to the prolonged frigid conditions of the past winter these heating arrangements were insufficient to maintain an adequate interior temperature.
- the appellant suffers from chronic pancreatitis, which affects his ability to digest food and regulate blood sugar. Many days he is unable to perform activities of daily living (ADL) and relies upon his parents for help.
- in the fall of 2017 and winter of 2018 he required numerous hospital admissions and it became imperative that his home environment be improved, particularly the provision of a reliable heat source.
- on April 23, 2018 CBC TV reported that the winter of 2017-2018 was the coldest on record for the province of British Columbia.

The panel considered the document and determined that all of the information contained in it was admissible under Employment and Assistance Act Section 22 (4) as evidence in support of the information before the ministry at reconsideration because it added greater detail to the information submitted by the appellant in his request for reconsideration and did not contain new evidence that was unavailable to the ministry at reconsideration. The ministry did not object to admissibility of the appellant's submission in its letter of May 9, 2018.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the reconsideration decision of April 6, 2018 in which the ministry determined that the appellant is not eligible for a crisis supplement for reimbursement of the purchase of a furnace because he failed to meet all of the eligibility criteria set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) subsection 57 (1). Upon reconsideration the ministry determined that two of the criteria in Section 57 (1) were met, namely that the appellant had no alternate resources available and that failure to obtain the item would result in imminent danger to the appellant's physical health. However the ministry was not satisfied that the evidence established that the supplement was required to meet an unexpected expense or to obtain an item was unexpectedly needed.

Relevant legislation:

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.

The appellant argues that his need for a replacement furnace was unexpected because the winter was unseasonably cold and he was unable to heat his home adequately by using his oven and a space heater, which in the past had been sufficient. He also argues that he was unable to find replacement parts for his existing furnace which has not worked for the past 8 years.

The ministry's position is that because the appellant's furnace has not worked for the past 8 years it cannot be established that the need for a replacement furnace during an unseasonably cold winter was unexpected.

Panel Decision

EAPWDR Section 57 (1) sets out the eligibility criteria for receipt of a crisis supplement. To be eligible for a crisis supplement a recipient must satisfy the ministry that:

1. the item or expense is unexpectedly needed;
2. there are no alternate resources available; and
3. failure to obtain the item or expense will result in imminent danger to the person's physical health.

Upon reconsideration the ministry determined that criteria 2 and 3 were met. This appeal decision will therefore deal with the remaining criterion, i.e., whether the item was an unexpected expense or was unexpectedly needed.

The evidence indicates that the appellant's furnace has not worked for the past 8 years. Since that time he has been able to maintain adequate heat in his mobile home by using his oven and a space heater. Because the winter of 2017-18 was particularly cold the pipes froze and the heat provided by the oven and space heater was insufficient to thaw them. The frozen pipes and low interior temperature created an unhealthy living environment for the appellant. With his parents' assistance he purchased and arranged installation of a replacement furnace on January 18, 2018. Illness and hospitalization prevented him from applying for a crisis supplement until February 27th.

Although the appellant was able to keep his home "warm enough" for the past 8 years by using his oven and space heater he has known throughout that period that his furnace was inoperable and made no plans to replace it. Because the winter of 2017-18 was colder than expected he discovered that he required more heat in his home and decided to replace the furnace. The need to provide a more effective heating system was unexpected, but not the need to replace the broken furnace.

The panel therefore finds that the ministry reasonably determined that the need for a replacement furnace was not unexpected and that Criterion #1 set out in EAPWDR Subsection 57 (1) (a) was not met.

In conclusion the panel finds that the ministry's determination that the appellant was ineligible for a crisis supplement for reimbursement of a furnace because the eligibility criteria set out in EAPWDR Section 57 (1) were not met was reasonably supported by the evidence, and confirms the decision. The appellant is not successful in his appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister
for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Joan Bubbs

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/May/29

PRINT NAME

Sarah Bijl

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/May/29

PRINT NAME

Andy Murray

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/May/29