

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision made under section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* and dated July 11, 2018, that denied the appellant's request for a crisis supplement for a/c repairs.

The appellant did not satisfy two of the all three statutory criteria for a crisis supplement as set out in section 57 (1) of the Employment and Assistance Regulation. The ministry held that:

1. The ministry denied the request because the appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense, the a/c requiring repairs had not been working for 4 years. The appellant had applied for a crisis supplement in 2014 to repair the same a/c unit and was declined at that time.

The ministry stated that this type of repair will be required in an older home and that it would be part of regular maintenance of the home (owned by the appellant) and should be budgeted for over time

2. Failure to obtain the a/c repair would not result in imminent danger to health; there is insufficient evidence to support a probability of immediacy that that failure to obtain the requested item will place the appellant's health in imminent danger.

3. It was established that there are no alternate resources available; the appellant has attempted to seek alternate resources such as a home equity loan and was denied a loan.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance for Persons with Disabilities Act, section 5*  
*Employment and Assistance for Persons with Disabilities Regulation, section 57*

## PART E – SUMMARY OF FACTS

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

- The appellant's Request for Reconsideration, dated June 9, 2015, which included the appellant's written submission;
- A quote from mechanical company A dated April 17, 2014 for \$5,717.60
- A quote from mechanical company B dated March 28, 2014, for \$ 7,700.00
- A quote from mechanical company C dated February 24,2014, for \$6,795.60.
- A quote from mechanical company C dated March 10, 2014, for \$4,995.00
- A quote from mechanical company C dated February 27, 2014, for \$11,635.44 plus additional costs
- A letter from a lending institution advising the appellant that her loan application to purchase a furnace was declined. There is no date on this letter.
- A note from a psychiatrist dated February 25, 2014 explaining that the appellant had a number of chronic medical problems that are affected by extreme temperatures within her home due to the lack of a/c.
- A letter from the same psychiatrist as above, dated June 27, 2018 – outlining the medical and psychiatric conditions the appellant lives with. It states that a health agency has conducted home visits and has recorded temperatures inside the home in the 35 – 40 Celsius degree range during the summer months. The excessive heat has increased acuity of her depression and anxiety.

In her reconsideration submission the appellant wrote that:

- She was in need of assistance and felt that this (repairs to the a/c) is the only potential option
- She strongly disagreed with the ministry's decision and recommendations.

At the hearing the appellant and her advocate provided an oral submission that included the following information:

- The appellant stated the mechanical companies have told her that the furnace is not worth fixing and should be replaced. This would include replacement of the air conditioning unit.
- The appellant is sleeping at night with her doors and windows open in an effort to dissipate the heat. She is concerned for her personal safety as anyone could just walk into her home.
- The appellant is also concerned the open doors and windows is allowing dust and pollutants to enter her home, further exacerbating her Asthma and other medical conditions. The appellant stated that there has been a deterioration of her health since her first application for a crisis supplement in 2014.
- The appellant states that her appetite is diminished by the heat and she eats sparingly
- The appellant states that she was hospitalized in 2016 and in 2017 for heat related issues.
- The appellant states that she finds it difficult to go to public places and to leave her home. She and her advocate were offended by the ministries' suggestion that she could leave her home for an a/c location or park.
- The appellant did research a portable a/c unit as an option but states that it will not work for her application and costs over \$ 600.
- The appellant states that the furnace does work in the winter providing heat, but she is concerned as to how long that will last due to the age of the furnace – over 40 years old.

In its oral testimony the ministry relied on its reconsideration decision.

### Admissibility of Additional Information

The panel admitted the appellant's and advocate's oral statements in accordance with section 22(4) of the *Employment and Assistance Act*, because this information is in support of the information and records that were before the ministry at reconsideration; specifically, these statements confirmed that the appellant's a/c was in need of repair and provided additional details on the affects of the heat on the appellant.

The oral statements of the ministry representative substantially reiterated information that had been before the ministry at reconsideration.

## PART F – REASONS FOR PANEL DECISION

### Issue

The issue under appeal is the reasonableness the ministry's reconsideration decision made under section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* and dated July 11, 2018, that denied the appellant's request for a crisis supplement for a/c repairs.

Was the ministry's decision that the Appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense and did not show that failure to meet the expense will result in imminent danger to her physical health, reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant?

### Relevant Legislation

**Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5**

#### Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

**Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57**

#### 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*.

### Unexpected

#### Section 57(1)(a) EAPWDR – Unexpected Expense

The first part of the sub-section requires the Appellant to show that the shelter expense for which she seeks a supplement is unexpected.

The appellant argues although not an unexpected expense that her a/c unit is vital to maintain her health and safety.

The ministry's position is that pursuant to section 57(1)(a) of the EAPWDR the expense was not unexpected because it is not unexpected that a/c or furnace repairs will be required in an older home and that the a/c unit has not been working for the past 4 years. Although the appellant's situation is difficult, it is reasonable to expect that an old furnace and a/c unit needs replacing due to normal wear and tear.

### Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". While the appellant argues that her a/c unit is required to maintain her health, she has provided no evidence as to why paying for a/c repairs on a unit not working for 4 years is an "unexpected expense".

The panel finds that repairs for the appellant's a/c are not unexpected as her home is old and the a/c has not been working for the past 4 years. Therefore, the panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for a/c repairs

was “unexpected”.

### **No Resources**

The ministry was satisfied that the appellant had not established that there are no alternate resources available to her.

### **Imminent Danger to Physical Health**

#### **Section 59(1)(b)(i) EAPWDR – Failing to Meet an Unexpected Expense will result in Imminent Danger**

The appellant argues that her a/c not working is a safety hazard (open doors and windows) and her health is in danger because the dust and pollutions entering her home.

The minister’s position is that while the appellant’s situation is a difficult one there is insufficient evidence to support a probability of immediacy that pursuant to section 57(1)(b)(i) failure to obtain funds for a/c repairs will place the appellant’s health in imminent danger.

#### *Panel Decision*

In the panel’s view that the a/c unit not working for 4 years, the word “imminent” connotes a degree of immediacy that has not been demonstrated in the appellant’s circumstances. There is insufficient evidence that failure to obtain the requested crisis supplement will put the appellant’s physical health in imminent danger. The panel notes that the appellant has not provided sufficient information from a physician regarding imminent danger to physical health.

Accordingly, the panel finds that the ministry was reasonable in determining that the appellant has not satisfied the legislative criterion related to “imminent danger to physical health” in accordance with section 59(1)(b)(i).

### **Conclusion**

Since the criteria in EAPWDR section 57 have not all been satisfied, the panel finds that the ministry’s decision to deny the appellant a crisis supplement for a/c repairs was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry’s decision is confirmed.

<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b>	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME Marilyn Mellis	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/08/14

PRINT NAME Patrick Cooper	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/08/14
PRINT NAME Mel Donhauser	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/08/14