

### **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 June 6, 2018, that denied the appellant's request for a crisis supplement for the purchase of a bed.

The ministry concluded that the appellant did not satisfy any of the 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 request was denied because the appellant did not show that the crisis supplement was for an unexpected need or an unexpected expense. The request was for funds to replace a bed that was worn out and had become soiled.

2. It was not established that there are no alternate resources available; the appellant did purchase a bed for \$ 200 and supplied the ministry with a hand-written receipt seeking reimbursement.

3. Failure to obtain the bed would not result in imminent danger to health; there is insufficient evidence to demonstrate that failure to obtain the requested item will place the appellant's health in imminent danger.

### **PART D – RELEVANT LEGISLATION**

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

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) 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 12, 2018, which included the appellant's written submission;
- A hand-written note from the appellant's mother – two pages in length and not dated.
- A copy of a hand-written quote for a box spring and mattress from a retail location with no date on it, submitted to the ministry April 10, 2018
- A 2<sup>nd</sup> two-page hand written note from the appellant's mother, dated June 12, 2018

In his reconsideration submission the appellant included two (2) hand-written note of two pages length each from his mother, in which she states:

Note 1, not dated:

- A bed was required, as he slept on the floor.
- A queen bed was purchased for \$ 200 and the receipt was attached.

Note 2, dated June 12, 2018:

- The old bed was bought 13 years ago for the appellant and was currently worn out and soiled
- The parents loaned the appellant the \$ 200 to buy a new mattress and box springs
- The appellant lived with his parents for a period and now lives in a bachelor suite.

Late Submission of Documents by the Appellant:

On August 10, 2018, the EAAT office received from the appellant additional request for reconsideration form with hand written notes (2 pages in length). The date of 07/12/2108 is crossed out and the date of 08/03/2018 hand written.

The chair did not admit this late submission for the following reasons:

- The deadline for submission was August 3, 2018, the submission was made 7 days after the deadline.
- The appellant did not supply any extenuating circumstances as to why the submission was late. As for example illness, hospitalization or waiting for an external party to supply the documents.
- The ministry would not have time to review the submission prior to the written hearing if the submission were accepted.

In its written submission the ministry relied on its reconsideration decision.

## **PART F – REASONS FOR PANEL DECISION**

The issue on this appeal is whether the Ministry reasonably denied the appellant a crisis supplement for the purchase of a new bed because the need did not meet all 3 criteria as set out in Section 57 of the EAPWDR, specifically, the need for a new bed was 1) unexpected, 2) there were no resources available to meet the need and 3) failure to obtain the item would result in imminent danger to his physical health.

This appeal was held by written hearing by consent of the parties in accordance with section 22(3)(b) of the *Employment and Assistance Act*.

### **Relevant Legislation:**

#### **Section 5 EAPWDA**

*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.*

#### **Section 57 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, 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, and*

*(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.*

*(BC Reg. 13/2003)*

There is no dispute by either party that the appellant is a single Person with Disabilities (PWD) recipient of disability assistance and is eligible to apply for a crisis supplement as set out in section 5 of the EAPWDA.

### **Unexpected**

The first part of sub-section 57(1) requires the appellant to show that the expense for which he seeks a supplement is unexpected.

The appellant requested a crisis supplement for a mattress and box spring as he has been using the same mattress for 13 years and it had become worn and soiled.

The ministry argues that all the criteria listed in section 57 of the EAPWDR must be met to be eligible for a crisis supplement and the appellant does not meet the criterion that a family unit or a person in the family unit requires the supplement to meet an unexpected expense or that the item was unexpectedly needed. The ministry submits that the bed was 13 years old and as such it is not unexpected that the appellant would have to replace it as it wears out.

The panel finds that the appellant's expense to replace a 13-year-old bed is not unexpected. Therefore, the panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that the expense for bed replacement was "unexpected".

### **No Resources**

The second part of sub-section 57(1) requires the appellant to show there are no alternate resources available to him.

The appellant's submission states that the funds to purchase the bed were borrowed from his parents who are on a fixed income and cannot afford the expense.

The ministry's position was that the appellant had not established that there are no alternate resources available to him. The ministry notes that his parents loaned him the funds to purchase the bed.

The panel finds that the ministry was reasonable in concluding that the appellant has not satisfied the legislative criterion that there are no alternate resources available to him. The appellant was able to borrow funds from his parents.

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

The third part of the sub-section is the legislative requirement that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit, if the bed is not obtained.

The appellant argues that he was sleeping on the floor and the old mattress was soiled and worn out, needing to be replaced. The mother did not wish the old bed to be in her home due to concerns about the condition of the mattress.

The minister's position is that there is insufficient evidence to support a probability of immediacy pursuant to section 57(1)(b)(i) to show that failure to obtain funds for a bed will place the appellant's health in imminent danger.

The panel finds that there is insufficient evidence to demonstrate that failure to obtain the bed would place the appellant's health in imminent danger.

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).

**Decision of the panel:**

As all three of the legislative requirements set out in section 57(1) of the EAPWDR must be met by the appellant in order to receive a crisis supplement, the panel finds the Reconsideration Decision of June 6, 2018 was reasonably supported by the evidence and the panel confirms the Ministry's 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

Marilyn Mellis

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/08/16

PRINT NAME

Chris McEwan

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/16

PRINT NAME

Wayne Reeves

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/16