

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of August 30, 2018 (the “Reconsideration Decision”), which denied the Appellant a crisis supplement under section 57 of the *Employment and Assistance For Persons With Disabilities Regulation* (“EAPWDR”) for expenses related to packing and moving furniture during a period of pest fumigation at a residence that the Appellant shares with his wife because of what the Ministry says was the Appellant’s failure to provide information requested, pursuant to section 10 of the *Employment and Assistance For Persons With Disabilities Act* (“EAPWDA”).

PART D – RELEVANT LEGISLATION

Section 1, 10, EAPWDA

Sections 28 and 57, EAPWDR

PART E – SUMMARY OF FACTS

The Appellant and his wife receive disability assistance as a two person family unit and both have been designated as persons with disabilities under the *Employment and Assistance For Persons With Disabilities Act* (“EAPWDA”).

The information before the Ministry at the time of the Reconsideration Decision included the following:

- The Appellant’s Request for Reconsideration, which was dated September 22, 2018 but appears to have been submitted earlier (the “RFR”), in which the Appellant says that:
 - He brought information requested by the Ministry to a Ministry office;
 - After arriving at the Ministry office, the Appellant waited to speak to a person at reception;
 - The Appellant subsequently saw a Ministry worker who, in the words of the Appellant, totally dismissed his paperwork, which consisted of pictures, doctors’ notes, and an eviction notice, and shoved it back through the window to the Appellant;
 - After having his paperwork returned, the Appellant went back to reception and asked to see the supervisor;
 - The worker to whom the Appellant gave his paperwork did not copy the paperwork that the Appellant had provided; and
 - The worker wrote out what the Appellant should bring but the Appellant did not refuse to provide his paperwork.

In his Notice of Appeal, dated September 10, 2018 and filed September 12, 2018, the Appellant stated that:

- The Ministry refused to photocopy his paperwork; and
- He disagrees with the Ministry’s decision in view of his wife’s condition.

The Appellant did not attend at the hearing and, having confirmed that the Appellant had been notified of the hearing date and time, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

At the hearing, the Ministry representative went through the chronology and stated that on August 13, 2018, the Appellant requested a crisis supplement for packing and moving furniture in order to permit the fumigation of the residence that he shares with his wife. On August 14, 2018, the Ministry advised the Appellant and his wife that it required the following information in order to determine the Appellant’s eligibility for a crisis supplement :

- Confirmation from the Appellant’s landlord that pesticide would be sprayed at the Appellant’s residence, requiring the belongings of the Appellant and his wife to be packed and moved;
- Confirmation from the doctors for the Appellant and his wife that they were physically unable to do the packing and moving; and
- Two estimates for the cost of the packing and moving.

The Ministry representative stated that the Appellant subsequently attended in person at a local Ministry office on August 14, 2018 at which time he was advised again by a worker and a supervisor what the Ministry required by way of verification in order to issue a crisis supplement. The Ministry representative stated that the Appellant refused to provide the information requested and asked for a reconsideration package when advised that the request for a crisis supplement would be denied without the above-described information.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a crisis supplement under section 57 of the EAPWDR for expenses related to packing and moving furniture during a period of pest fumigation at a residence that the Appellant shares with his wife because of what the Ministry says was the Appellant's failure to provide information requested, pursuant to section 10 EAPWDA.

Relevant Legislation

Section 57 of the EAPWDR authorizes the Ministry to provide a crisis supplement in certain circumstances:

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.

Section 10 of the EAPWDA authorizes the Ministry to direct a recipient to provide information that relates to assistance or a supplement:

Information and verification

10 (1)For the purposes of

- (a)determining whether a person wanting to apply for disability assistance or hardship assistance is eligible to apply for it,
- (b)determining or auditing eligibility for disability assistance, hardship assistance or a supplement,
- (c)assessing employability and skills for the purposes of an employment plan, or
- (d)assessing compliance with the conditions of an employment plan,

the minister may do one or more of the following:

- (e)direct a person referred to in paragraph (a), an applicant or a recipient to supply the minister with information within the time and in the manner specified by the minister;
- (f)seek verification of any information supplied to the minister by a person referred to in paragraph (a), an applicant or a recipient;
- (g)direct a person referred to in paragraph (a), an applicant or a recipient to supply verification of any information he or she supplied to the minister.

(2)The minister may direct an applicant or a recipient to supply verification of information received by the minister if that information relates to the eligibility of the family unit for disability assistance, hardship assistance or a supplement.

(3)Subsection (1) (e) to (g) applies with respect to a dependent youth for a purpose referred to in subsection (1) (c) or (d).

(4)If an applicant or a recipient fails to comply with a direction under this section, the minister

may declare the family unit ineligible for disability assistance, hardship assistance or a supplement for the prescribed period.

(5) If a dependent youth fails to comply with a direction under this section, the minister may reduce the amount of disability assistance or hardship assistance provided to or for the family unit by the prescribed amount for the prescribed period.

Section 28 of the EAPWDR sets out the consequences of failing to comply with a request for information or verification from the Ministry:

Consequences of failing to provide information or verification when directed

28 (1) For the purposes of section 10 (4) [*information and verification*] of the Act, the period for which the minister may declare the family unit ineligible for assistance lasts until the applicant or recipient complies with the direction.

(2) For the purposes of section 10 (5) [*information and verification*] of the Act,

(a) the amount by which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit is \$100 for each calendar month, and

(b) the period for which the minister may reduce the disability assistance or hardship assistance of the dependent youth's family unit lasts until the dependent youth complies with the direction.

Appellant Position

The Appellant's position, as set out in the RFR and in his Notice of Appeal is that he was willing to provide the Ministry with the information requested but that a Ministry representative refused to accept the information and documents or to make copies of them. In the result, the Appellant argues that he did not refuse to comply with a request for information and verification regarding the crisis supplement request.

Ministry Position

The Ministry position is that the Appellant was asked to provide specific information in support of his request for a crisis supplement but simply did not do so and stated that he would not do so.

Panel Decision

Section 10 of the EAPWDA grants the Ministry the authority to request information and verification in order to determine "eligibility for disability assistance, hardship assistance or a supplement." As such, the legislative authority for the Ministry to request information in support of a request for a supplement is clear. A supplement is defined in section 1 of the EAPWDA as "any form of assistance specified by regulation", which includes crisis supplements.

Section 28 of the EAPWDR makes it equally clear that among the potential consequences of providing inaccurate or incomplete information when directed to provide such information or verification is ineligibility for the assistance requested "until the applicant or recipient complies with the direction."

In the result of the foregoing, the panel finds that the Ministry's interpretation of the legislation was reasonable.

The Appellant and the Ministry have put forward conflicting accounts of the Appellant's reaction to the Ministry's request for information pertaining to the crisis supplement. However, the panel notes that the Appellant's own evidence indicates that the Ministry never took any of the information the Appellant says he was prepared to provide. Notwithstanding that those documents remained in the Appellant's possession after he attended at a local Ministry office, none of the information or documentation that the Appellant stated he brought to the Ministry is before the panel and it does not appear to have been provided to the Ministry with the Appellant's RFR. In the absence of that documentation, the panel finds that the Ministry reasonably applied section 10 of the EAPWDA and section 28 of the EAPWDR in the Appellant's circumstances and that the Reconsideration Decision was reasonably supported by the evidence before the Ministry at the time of the Reconsideration Decision.

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

Adam Shee

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/10/05

PRINT NAME

Adam Rollins

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/10/05

PRINT NAME

Roy Wares

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/10/05