

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated September 11, 2018 which held that the appellant did not meet the legislated criteria in Section 59 of the Employment Assistance for Persons with Disabilities (EAPWD) Regulation or the Employment and Assistance Act (EAA) Section 4 for a crisis supplement for vehicle repairs.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), Section 4

Employment and Assistance Regulation (EAR), Section 59

PART E – SUMMARY OF FACTS

The evidence before the Ministry at the time of reconsideration was as follows:

- The appellant is a sole recipient of benefits
- The appellant's request for a crisis supplement dated August 24, 2018 wherein she states that her vehicle required a slave cylinder replacement and that a slave cylinder is mandatory in order to shift gears as her vehicle has a manual transmission. Further, she states that if her car isn't able to run, it will not meet her daily living and working requirements. She also states that the repair has been completed on her vehicle and the service provider is wanting payment
- An invoice from an auto repair shop dated August 23, 2018 in the amount of \$112.69 to replace a slave cylinder

At the hearing, the appellant provided further clarification on her circumstances and Request for Reconsideration. She stated that:

- She has been living in her car 24/7 for approximately 4.5 years with her pets
- She requires her car to be in running condition so she can obtain food and supplies, go have showers, go do her laundry and look for work
- The need to replace the slave cylinder in her vehicle was sudden and unexpected. The vehicle stopped working properly without warning in the middle of a busy intersection
- She has performed regular maintenance such as oil changes and fluid top ups since she purchased the vehicle, which is a 2003 model

The ministry relied upon the Reconsideration Decision at the hearing.

The panel makes the following findings of fact:

- The appellant has had the repairs completed on her vehicle
- Her vehicle is also her residence

PART F – REASONS FOR PANEL DECISION

The issue before the panel is to determine the reasonableness of the Ministry's reconsideration decision dated September 11, 2018 which held that the appellant's request for re-payment of her vehicle repair costs did not meet the legislated criteria in Section 57 of the EAPWD Regulation for a crisis supplement.

The legislation applicable to this appeal is as follows:

4. EAA: Income assistance and supplements

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

59. EAR: Crisis supplement

(1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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 income 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.

The ministry states that to qualify for a supplement you must meet all the criteria set out in Section 59(1) of the EAR. The request must be required to (a) meet an unexpected expense or obtain an item unexpectedly needed AND (b) you have no resources available to you to obtain the item on your own AND (c) failure to provide the item will result in imminent danger to you or to your family's physical health or removal of a child under the Child, Family and Community Service Act.

The ministry is satisfied that the appellant does not have the resources to replace her slave cylinder. Therefore the two issues left to deliberate are the "unexpectedness" of the slave cylinder breaking and whether failure to provide the item will result in imminent danger to the appellant.

The panel finds that a slave cylinder replacement is not normally considered a regular maintenance item. Oil changes, fluid top ups, filter changes, windshield wiper blades and tire replacement are typical automobile maintenance items. A slave cylinder is not normally replaced unless it is broken. Therefore, the panel has determined that the need to replace the slave cylinder in the appellant's car was unexpected.

The appellant states that she requires her car to be in running condition in order to keep warm in the winter. The panel finds that there is insufficient evidence to support the appellant's claim that she would be in imminent danger if her car was not in running condition. Only the car motor needs to be running in order to keep her and her pets warm in the winter time. The brakes and slave cylinder are not necessary to run the engine. The appellant states she needs her car to be in running order so she can obtain food and supplies, go have showers, go do her laundry and look for work. While these are necessary tasks, there are other options, such as community service providers lending assistance, for the appellant to accomplish them without endangering herself by driving a vehicle in need of repair.

Conclusion

The ministry states that to qualify for a supplement you must meet **ALL** the criteria set out in Section 59(1) of the EAR. The request must be required to (a) meet an unexpected expense or obtain an item unexpectedly needed AND (b) you have no resources available to you to obtain the item on your own AND (c) failure to provide the item will result in imminent danger to you or to your family's physical health or removal of a child under the Child, Family and Community Service Act.

The panel has determined that the need to replace the slave cylinder in the appellant's car was unexpected, however, the panel has also determined that there is insufficient evidence to support the appellant's claim that she would be in imminent danger should the vehicle not be repaired.

The panel finds that the ministry's reconsideration decision, which held that the appellant was not eligible for a crisis supplement for vehicle repair because she did not meet **ALL** of the legislated criteria in section 59 of the EAR, is a reasonable application of the legislation in the circumstances of the appellant and is reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful on 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

Jan Lingford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018*10-12

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-10-12

PRINT NAME

Loren Forsyth

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018-10*12