

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 5, 2019 which denied the appellant's request for a crisis supplement to purchase a bed. The ministry found that the appellant did not meet all of the criteria listed under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation for provision of a crisis supplement.

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

Information before the minister at reconsideration included:

- A copy of a letter from a physician, To Whom it May Concern, dated December 10, 2018, stating that the appellant has chronic lumbar spine arthritis and requires a new mattress that provides sufficient support.
- A copy of an "Assessment Tool" completed by the appellant, dated January 9, 2019, showing the areas where the appellant feels pain, severity, functional limitations, pain management and medical history.
- A copy of a clinic appointment reminder dated December 10, 2018.
- A photograph of the appellant's bed.
- A copy of a letter from a physician, To Whom it May Concern, dated January 14, 2019, stating that the appellant requires a new mattress as the one he has is over 10 years old and is no longer functional, and that the appellant has long-standing arthritis affecting his lumbar spine and knees, that his current bed leaves him with significant pain each morning that limits his mobility and that he will require surgery to replace both knees.
- The appellant's Request for Reconsideration, signed January 28, 2019.

At the hearing the appellant stated that he feels there has been a miscommunication with the ministry, and that two pieces of information are missing from the Appeal Record: a letter from his doctor and a list of places where he tried to find a bed. The appellant stated that he purchased a bed from a local second-hand store in October, 2018, but did not have money for bedding. He approached the ministry and received a grant of \$75.00. Three days later, he discovered bedbugs. He approached the retailer who gave him a store credit voucher and advised him to throw the bed away. He did not want to purchase another bed from the retailer, but spent the voucher on other things. He stated that he then approached the ministry for a new bed. The appellant stated that he approached community agencies, but was unable to obtain a bed. The appellant stated that he came to Canada as a refugee, worked for some time, but he developed PTSD as a result of his former life experiences. He has received counselling and is now improved. He stated that he volunteers in his community. The appellant submitted two documents to the panel:

1. A letter from his physician dated March 11, 2019 stating that the appellant has been dealing with arthritis which is deteriorating rapidly, that he is awaiting knee surgery and that in recent months he has been dealing with bedbugs affecting his mattress. As a result, he has been sleeping on a rocking chair, which is causing hip pain which the physician suspects is worsening his arthritis.
2. A reference letter, undated, from a community agency employee stating that the appellant is a peer worker at the agency.

The panel admitted the physician's letter under section 22(4) of the Employment and Assistance Act as it was written by the same physician who wrote two previous letters and deals with essentially the same information concerning the appellant's arthritis and is in support of the information before the minister. The panel notes, however, that the issue of bedbugs was not part of the information before the minister when the decision under appeal was made.

The panel did not admit the reference letter under section 22(4) as it is not in support of the information and records that were before the minister, and does not deal with the issues under appeal.

In response to questions from the ministry, the appellant stated that he did not try fumigation as he threw the bed out. He stated that he still has his original bed and his landlord has confirmed that there are no bedbugs. In response to questions from the panel, the appellant stated that his original bed was 10 years old. The second bed was infested, and the bedbug issue is now resolved. He stated that he asked the ministry for a bed and mattress and that he approached community agencies with no success.

The ministry responded by referring to the Reconsideration Decision, which states that a new mattress is required, but it is not unexpected, and the appellant's request does not meet all of the requirements for approval. In response to questions from the appellant, the ministry stated that the appellant's list of approaches to community resources would be taken into consideration if the ministry were advised of them. In response to questions from the panel, the ministry stated that the need for a mattress was not unexpected and that the issue of bedbugs was new information.

[REDACTED]

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the reasonableness of the ministry decision which denied the appellant's request for a crisis supplement to purchase a bed. The ministry found that the appellant did not meet all of the criteria listed under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation for provision of a crisis supplement.

Legislation

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.

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 \$40 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) and (6) Repealed. [B.C. Reg. 248/2018, App. 2, s. 2.]

(7) Despite subsection (4) (b), 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 appellant's position is that his pain is getting worse as a result of having a bed that is in poor condition and that he did attempt to access community resources to find a new one.

The ministry's position is that the appellant meets one legislative criterion out of three, and that even if the

appellant's attempts to obtain a bed through community resources are taken into consideration, the need for a bed is not unexpected, and he does not meet the criteria stated in section 57(1), EAPWDR.

The panel notes that the appellant's argument that his first replacement bed had bedbugs was not stated in his original request and therefore was not part of the reconsideration decision under review. The appellant stated that this issue was resolved. The panel acknowledges that the appellant has a chronic condition and that his physician wrote that it is getting worse, perhaps due to the lack of a proper bed.

Section 57(1), EAPWDR provides three criteria that must be met in order for a crisis supplement to be provided: the need for the item is unexpected or there is an unexpected expense; there are no alternate resources available and failure to obtain the item or meet the expense will result in imminent danger to the physical health of any person in the family unit or removal of a child under the *Child, Family and Community Service Act*. The ministry found that the appellant met the third criterion, that failure to replace the mattress will result in imminent danger to the appellant's health, but that he did not meet the other two criteria. The panel notes that the appellant may have satisfied the second criterion, that no alternate resources are available, as he provided oral evidence of his attempts to obtain a bed from various agencies. However, the panel finds that the ministry reasonably determined that the need to replace a 10 year old bed is not unexpected, as required under section 57(1)(a), EAPWDR. The appellant did not provide information to show that there was an unexpected need.

The panel therefore confirms the ministry decision.

The appellant's appeal is not successful.

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

PRINTNAME

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019 April 17

PRINTNAME

Nancy Eidsvik

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 April 17

PRINTNAME

Kim Read

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 April 17