

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 7, 2019, which denied the appellant's request for a crisis supplement to assist with home repairs required due to plumbing leaks and mold because she does not meet all of the eligibility criteria described in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry determined that

- the appellant's need is not unexpected; and
- failure to obtain a crisis supplement for home repairs does not result in imminent danger to the appellant's physical health.

PART D – RELEVANT LEGISLATION

EAPWDR section 57.

PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

The appellant is a sole recipient of disability assistance with no dependents.

She owns and resides in a 1994 travel trailer. The trailer was gifted to her by her father in October 2017. She reported that she lived in the trailer for about a year before that.

On December 10, 2018 the appellant submitted her request. She indicated that she noticed mold growing under her sink and shower area due to plumbing leaks. She reported that she could not afford the repair cost.

On December 18, 2018 the appellant's request was denied. It was noted on her file that she indicated the pipes may have been leaking for a few months.

As part of her reconsideration package the ministry provided the appellant with names and contact information of 11 advocates.

On February 6, 2019 the ministry received her signed request for reconsideration requesting an extension. She reported she needed a hot water tank plus installation and had found out that a hot water tank costs \$529 plus installation.

On March 6, 2019 the ministry contacted the appellant for additional information. The appellant advised that on about January 29th she had the problem in the bathroom fixed and a tap was replaced. She stated that there was mold under the kitchen sink because her hot water tank needed to be replaced. She received a quote by email and would submit it to the ministry the next day.

In her Notice of Appeal dated March 22, 2019 the appellant wrote: "I only received it on March 22. When I finally found that the hot water tank was causing the leak, Working on collecting information, Waiting for the repairman. Everything takes a long time to come together." She wrote further: "I've spoke with someone over the telephone + only received my package today. I'm now waiting for an advocate through the Volunteer Services."

On appeal the appellant provided an email and quote from an RV dealership dated March 7, 2019 which stated that "any price that may be presented would be inclusive of Freight, but exclude the Road Ready package/Documentation Fee/Government Gas Certification of \$495.00 and Taxes". The estimated cost of a hot water heater would be \$588.17.

At the hearing the appellant stated she has disabilities and does not always understand.

There was already a leak when she got the trailer. She noticed the leak and the mold around 2 years ago when she had the carpet ripped out. This mold is unhealthy. When she applied for the crisis supplement there were 2 leaks; the one in the washroom is now fixed while the leak under the kitchen sink has returned. The repairman said that it was caused by the leaking hot water heater. This repairman is known to her father and will provide her with free labour.

The appellant testified further that the defective water heater is running on propane, was gas fitted and is located under the kitchen sink. It was specially made for an RV or travel trailer.

She has not performed any maintenance because she cannot afford it. The whole tank is rusty now but she did not shut it off because she needs the hot water for showering and doing dishes. She does not know how to shut it off.

She stated she does not have an advocate - there was not enough time to get one because she received her reconsideration package too late.

The appellant displayed 18 photos on her cell phone and stated that she had no paper copies made because she cannot afford it. 2 photos showed part of the outside and underside of an old trailer. One photo showed part of what the appellant identified as her defect hot water heater. The other photos showed various pipes and wet wood flooring. The ministry did not object to the admissibility of these photos but referred the panel to the EAAT letter to the appellant dated March 26, 2019 which stated that additional documentation should be provided to the Tribunal at least 3 business days before the hearing and, if unable, sufficient copies should be brought to the hearing.

The ministry reviewed the reconsideration decision and added that the address of the appellant is known to them as a result of her filling out her shelter information. There is a check box to indicate whether the mailing address is different from the home address; when it is not checked the ministry has only the one address the appellant gave to the ministry.

Pursuant to section 22(4) of the *Employment and Assistance Act* the panel admits the appellant's submissions on appeal, the quote for the hot water heater, and the photos she presented at the hearing as in support of information that was before the ministry at reconsideration. These documents provide additional details on the appellant's plumbing issues.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the reasonableness of the ministry reconsideration decision which denied the appellant's request for a crisis supplement to assist with home repairs required due to plumbing leaks and mold because she does not meet all of the eligibility criteria described in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, was the ministry reasonable in its determination that

- the appellant's need is not unexpected; and
- failure to obtain a crisis supplement for home repairs does not result in imminent danger to the appellant's physical health.

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*.

Appellant's Position:

The appellant argues that she should be eligible for a crisis supplement because her defective hot water heater causes a leak and unhealthy mold in her trailer and she cannot afford the cost of replacing it. She was not able to perform any maintenance because she could not afford it.

She argues further that she did not have enough time to obtain an advocate because her reconsideration package arrived too late - thus she is at a disadvantage.

Ministry Position:

Under the EAPWDR requests for a crisis supplement must

- meet an unexpected expense or an item unexpectedly needed,
- when the family unit has no resources to meet the need, and
- the ministry considers that failure to provide the item will result in imminent danger to the physical health of a member of the family unit or the removal of a dependent child under the *Child, Family and Community Service Act* (CFCSA).

The ministry's policy is as follows:

A crisis supplement for emergency home repairs may be provided if recipients meet the requirements for a crisis supplement and

- require emergency repairs for their place of residence, and
- their place of residence is owned by a person in their family unit, and
- the repairs are the least costly, appropriate option, and
- the cost of the repairs has been pre-approved by the ministry.

Emergency home repairs may include essential items for the protection, replacement, and repair that are part of the physical structure of the recipient's home and the repair and replacement of home heating and cooking appliances when no other means are available for home heating and cooking, and all other eligibility requirements are met.

The ministry is not satisfied that the appellant's need is unexpected. It is reasonable given the age of her 1994 travel trailer that she would be required to replace the hot water tank to avoid leakage and mold and would be required to do regular maintenance and repair. The trailer is 25 years old and she has not provided any information that would support that the water tank was within the warranty period thus being an unexpected need for the appellant to replace the tank and deal with mold.

It is reasonable that the appellant does not have the resources to pay the full amount; however, she should be able to budget for the expense.

The ministry is not satisfied that there would be imminent danger to her physical health if not assisted at this time. She has provided no information that would support that the hot water tank is not working or that it is causing unsafe living conditions in its current state, nor did she provide any additional information after being contacted by the ministry.

Panel Decision:

While the appellant argues that she is at a disadvantage because she did not have enough time to find an advocate as her reconsideration package arrived too late the panel finds that the ministry completed the reconsideration decision within the legislated time frame.

Unexpected expense or item unexpectedly needed

Section 57(1)(a) of the EAPWDR sets out that that the appellant has to demonstrate that she has to meet an unexpected expense or obtain an item unexpectedly needed.

While the appellant argues that she should be eligible for a crisis supplement because she needs to replace her defective hot water heater the panel finds that the ministry reasonably determined that regular maintenance and repair is required for a travel trailer, and, given the age of her 1994 travel trailer, it is not unexpected that the appellant would be required to replace her hot water tank to avoid leakage and mold. Furthermore, as there is no evidence that the hot water tank was within the warranty period the ministry reasonably determined that the need for replacement was not unexpected.

Imminent danger to physical health:

While the appellant argues that mold is not healthy the panel finds that that the ministry reasonably established that the appellant has not satisfied the legislative criterion related to “imminent danger to health” in accordance with section 57(1)(b)(i) as there is no evidence that the hot water tank is not working or is causing unsafe living conditions in its current state.

Conclusion:

As not all of the criteria of section 57(1) of the EAPWDR have been satisfied, the panel finds that the ministry’s decision to deny the appellant a crisis supplement for home repairs required due to plumbing leaks and mold was reasonably supported by the evidence and a reasonable application of the legislation in the appellant’s circumstances. The ministry’s reconsideration decision is confirmed and the appellant is not successful on appeal.

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
LEGISLATIVE AUTHORITY FOR THE DECISION:		
<i>Employment and Assistance Act</i>		
Section 24(1)(a)	<input checked="" type="checkbox"/>	or Section 24(1)(b)
and		
Section 24(2)(a)	<input checked="" type="checkbox"/>	or Section 24(2)(b)

PARTH - SIGNATURES	
PRINTNAME Inge Morrissey	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/04/12

PRINTNAME Marnee Pearce	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/04/12
PRINTNAME Donald Stedeford	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/04/12