

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated January 15, 2019 which held that the appellant was not eligible for a crisis supplement for utilities pursuant to Section 4 of the Employment and Assistance Act (EAA) and Section 59 (1) of the Employment and Assistance Regulation (EAR).

The ministry determined that the appellant meets the criterion of Section 4 of the EAA as the appellant is eligible for income assistance or a supplement if he meets the criteria of the regulation. The ministry also determined that the appellant established that, pursuant to section 59 (1) (a), he did not have other resources to meet his need for a crisis supplement for utilities.

However, the ministry determined that the appellant failed to establish that pursuant to subsection (1) (a), the request for a crisis supplement for utilities is to meet an unexpected expense or an expense unexpectedly needed and that pursuant to subsection (1) (b) the failure to obtain the requested crisis supplement for utilities will result in imminent danger to his physical health.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation – EAR- Section 59 (1)

Employment and Assistance Act – EAA- Section 4

**PART E – SUMMARY OF FACTS**

The evidence before the ministry at the time of reconsideration consisted of:

1. Request for crisis supplement – utilities application, signed and dated July 23, 2019, and stated that the appellant received a notice of disconnection or important notice for his phone and internet. The application also indicated the following:
  - What is the name on the account? The appellant responded 'N/A'.
  - Have you attempted to make payment arrangements? The appellant responded 'N/A' and explained "It is for my internet and phone which I need to be able to search for work. Both plans need a monthly bill or service will be turned off".
  - When was the last payment on the account? The appellant responded 'N/A'.
  - \$96.00 is owed on the account and the crisis supplement is not for a security deposit.
  - What is the reason for non-payment? The appellant responded "I am currently not working and am unable to pay rent and utilities".
  - No other resources are available to the appellant nor does he require electricity for essential medical equipment.
  - What is the direct threat to your health and safety? The appellant responded "I have no money for food or rent. As well as no money for the things I need to find work".
  
2. Request for Reconsideration (RFR), signed and dated July 29, 2019, which stated, in part, that "I cannot search for work or be contacted by possible employers" and that to access the internet at the public library would require a 4 hour round trip walk which takes time away from his work search time.

**Evidence at Appeal**

Notice of Appeal (NOA), signed and dated August 15, 2019 and stated, in part, "I currently have no money and am close to being evicted from my home". He also stated that he has no other avenues for help and has borrowed money here and there. He needs sustainable and reliable support.

The panel found that the information in the NOA consists of the appellant's argument and does not require an admissibility determination.

**Evidence at the Hearing**

At the hearing the appellant, in part, stated the following:

In terms of imminent danger:

- The inability to get a job will mean that he cannot buy food and pay rent, and being homeless is an imminent danger to his physical health.
- He cannot find work without an internet connection and potential employers cannot contact him if he does not have a phone.
- He needs phone and internet to find and secure work and the library is not an option because it does not have the software he needs to update his resume.
- In August 2019 he received an eviction notice but managed to pay his rent and avoided the eviction.
- He has had to turn to using the food bank to meet his needs and has borrowed money from friends.

In terms of unexpected need:

- He was working in the [REDACTED] industry until May 2019 and was then laid-off as the production ended.

- He was new to this industry and did not realize that there would be periods of unemployment. His job loss was unexpected.
- The appellant also argued that the ministry should consider including telephone and internet services as utilities and essential services in its legislation because in today's day and age these are essential.

At the hearing the ministry relied on its reconsideration decision.

### **Admissibility of Additional Information**

Section 22(4) of the *Employment and Assistance Act (EAA)* provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the minister when the decision being appealed was made and "oral and written testimony in support of the information and records" before the minister when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the minister at reconsideration. These limitations reflect the jurisdiction of the panel established under section 24 of the EAA – to determine whether the ministry's reconsideration decision is reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of an appellant. That is, panels are limited to determining if the ministry's decision is reasonable and are not to assume the role of decision-makers of the first instance. Accordingly, panels cannot admit information that would place them in that role.

In this case, the panel determined that the appellant's reference to an eviction notice issued in August 2019 supports or corroborates the information that was before the ministry at the time of reconsideration. Accordingly, the panel admits this information under section 22(4) of the EAA. However, the panel places little weight on this information because the crisis supplement request is for utilities and not rent, and because the appellant stated that he avoided his eviction by managing to pay his rent.

**PART F – REASONS FOR PANEL DECISION**

The issue at appeal is whether the ministry's decision that found that the appellant failed to establish that his need for a crisis supplement for utilities was an unexpected expense and that failure to meet the need would result in imminent danger to his physical health as required by Section 59 (1) of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 59(1) of the EAR sets out the eligibility requirements for providing crisis supplement, as follows:

**Crisis supplement**

- 59** (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.

Section 4 of EAA provides as follows:

**Income assistance and supplements**

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

*The Ministry's Position*

The ministry argued that the appellant failed to establish that his utility bill is an unexpected expense and that failure to obtain a crisis supplement for telephone and internet services will result in imminent danger to his physical health. As such the legislative criteria, pursuant to section 59 of the EAR, have not been met and the appellant is not eligible for a crisis supplement for utilities.

*The Appellant's Position*

The appellant argued that he is unable to search for work or be contacted by potential employers without telephone and internet services. If he is unable to get work he will be homeless which is an imminent danger to his physical health. He also argued that he unexpectedly lost his job and therefore cannot pay his phone and internet bill.

*The Panel's Decision*

The legislation requires that the crisis supplement is required to meet an unexpected expense or obtain

an item unexpectedly needed, that there are no other resources available to the applicant and that failure to obtain an item will result in imminent danger to physical health or the removal of a child.

### Unexpected Need

Section 59 (1) (a) of the EAR states that the minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if the family unit or person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.

The ministry noted that when signing up for telephone and internet service it is reasonable to expect that there will be expenses related to the service and that payment will be required for continued service. The ministry also noted that the appellant did not state what was unexpected about his situation and that when looking for work having a method for communication is not an unexpected need.

At the hearing the appellant argued that he unexpectedly lost his job. The panel acknowledges that the appellant lost his job unexpectedly however, the panel finds that unexpectedly losing a job does not in turn render the expense of telephone and internet services to be unexpected. Furthermore, due to his job loss, the ministry is providing the appellant with shelter and support funds so he is not completely without funds.

The panel finds that the expense of purchasing utilities such as telephone and internet is not typically unexpected as the need is an ongoing expense and the appellant failed to demonstrate otherwise. Furthermore, the panel does not find it reasonable when the appellant argued that the library does not have the necessary software to update his resume because this issue is not about software but instead about internet access which the library does have.

For these reasons, the panel finds that the appellant failed to establish that his need for a crisis supplement for utilities meets the criteria set out in section 57(1) of the EAPWDR and therefore, the ministry was reasonable to find that the appellant was ineligible for a crisis supplement for utilities due to unexpected need.

### Imminent Danger to Physical Health

Section 59 (1)(b) of the EAR states that the minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship if failure to meet the need or obtain the item will result in imminent danger to the physical health of the applicant. In its reconsideration decision, the ministry noted that the appellant has not demonstrated that he faces imminent danger to his physical health without telephone or internet service.

At the time of the reconsideration decision, the appellant did not argue that his physical health is in imminent danger due to the failure to obtain telephone or internet services nor did he provide evidence to establish that there is imminent danger to his physical health. The panel also notes that in the NOA, the appellant argued that he 'is close to being evicted' but provided no evidence directly linking the lack of telephone and internet services to his possible eviction.

At the hearing the appellant stated that if he cannot find work he will be homeless and will not have food which is an imminent danger to him. Again, the panel notes that the appellant did not explain how he could become homeless if he continues to receive shelter and support funds from the ministry. His argument speaks to potential outcomes of the inability to find work, whereas the issue on this appeal is whether or not imminent danger to physical health would result from a loss of telephone and internet services. The panel finds that the appellant failed to establish that the loss of telephone and internet

services would put his physical health in *imminent* danger.

The panel finds that the evidence does not establish that failure to obtain telephone and internet services will result in imminent danger to the appellant's health and therefore finds that the ministry's decision stating that there is no evidence establishing that failure to obtain a crisis supplement for utilities will result in imminent danger to the appellant's physical health was reasonably supported by the evidence.

### **Conclusion**

The panel finds that the ministry reasonably concluded that the evidence establishes that all of the criteria set out in Section 59 (1) of the EAR have not been met. The panel therefore finds that the ministry's decision to deny the appellant's request for a crisis supplement for utilities was a reasonable application of the legislation and was supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful at appeal.

APPEAL NUMBER

**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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/09/05

PRINT NAME

Susan Ferguson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/05

PRINT NAME

Robert Kelly

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/05