

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated September 25, 2019, which denied the appellant's request for a crisis supplement to cover the cost of food. The ministry found that all of the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met as the cost of food was not an unexpected expense or an item unexpectedly needed.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

PART E – SUMMARY OF FACTS

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

- 1) Invoice dated August 9, 2019 from an optometrist in the sum of \$80.80, with \$40 paid August 9 and \$40.80 to be paid August 21, 2019;
- 2) Receipt dated August 21, 2019 for \$87.36 paid to a cable company;
- 3) Invoice dated August 22, 2019 for 'MSP subsequent visit fee' from a Physiotherapy and Sports Injury Centre in the amount of \$45; and,
- 4) Request for Reconsideration dated September 12, 2019 in which the appellant wrote:
 - The appellant stands by the receipts that the appellant submitted as these expenses were necessary.
 - The appellant left out \$43.00 paid for a bus pass.
 - When the appellant received a letter and the stub from the ministry, around December 2018 or January 2019, and the appellant remembers reading \$40 per month for food and help with hydro every month. To the appellant's knowledge, there were no conditions.
 - The appellant has a photo of the rental agreement showing a teenaged grandchild living with the appellant from August 8, 2019 to September 6, 2019. The ministry would not support this teenaged grandchild moving forward in life. This teenaged grandchild is no longer residing with the appellant.
 - Another teenaged grandchild lived with the appellant for about 2 weeks.
 - Both teenaged grandchildren have been diagnosed with mental illnesses and, with no support moving forward, they became physically and emotionally abusive towards the appellant.
 - The appellant requires physiotherapy treatments every month for \$45.

Additional information

In the appellant's Notice of Appeal dated October 2, 2019, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that the appellant is having hard times and needs the ministry's assistance. The \$40 would help with purchasing much-needed items, i.e. toilet paper and food that the appellant requires.

At the hearing, the appellant stated:

- The appellant stands by everything the appellant provided in the documents because the situation was beyond the appellant's control and the appellant is experiencing very hard times. The appellant only ended up with about \$50,000 in assets and the appellant's bed and nothing else. The appellant does not ask for much from the ministry.
- The letter the appellant received from the ministry around January 2019, which included the appellant's stub, stated that they could access \$40 for emergency food and they could get help with hydro expenses. In this letter, there were no conditions mentioned.
- The previous month, the appellant asked for a crisis supplement for food and the appellant did not have to provide any receipts or other information and the ministry took the appellant's word for everything, did not mention the legislation, and paid the appellant \$40. The appellant stated that the appellant believes it is not fair that for this request the appellant was denied by the ministry for the same information that the appellant had given in the previous month. The appellant has a right as a Canadian citizen to be treated fairly. The appellant believes that the ministry is showing prejudice in denying this request and the appellant is concerned for future requests made by the appellant.
- The appellant stated that far more than \$40 has been spent by the ministry in denying the appellant's request, which has required an appearance before the Tribunal.
- The appellant needs to have physiotherapy treatments every month and the

physiotherapist has said that the appellant really needs treatments twice per month.

- The appellant needs items like toilet paper, which the appellant has taken from a public facility out of necessity.
- The appellant will likely have to ask for another crisis supplement because of the appellant's actual need and the many things the appellant has to do without.
- The appellant was assaulted by a woman with bear spray at the shelter and the appellant fell and broke the appellant's glasses. The appellant stated that the appellant needed new frames for the appellant's glasses.
- For the cable TV bills, the appellant brought the appellant's teenaged grandchildren off the street and wanted service while the appellant's teenaged grandchildren were living with the appellant. The appellant was required to pay an amount past due for cable services used by the appellant in another community.
- The Ministry of Children and Family Development (MCFD) refused to support the appellant's teenaged grandchildren by giving the appellant custody and some money. The ministry would not help and the appellant could not manage without support. Each grandchild has a different mother.
- The appellant suffered a brain injury in January 2019.

The ministry relied on its reconsideration decision as summarized at the hearing. At the hearing, the ministry also clarified:

- The appellant chose to allow the appellant's teenaged grandchildren to live with the appellant even though there would be extra expenses to the household.
- The appellant requested that the appellant's grandchildren be added to the appellant's ministry file but the ministry requires confirmation that the grandchildren are living with the appellant, either from the mother or from a court document. The appellant's shelter document is not sufficient confirmation.
- The ministry considers each request for a crisis supplement with the appellant's circumstances at the time and the legislative criteria are to be met in each instance. The ministry representative would consider the appellant's situation and the nature of the expenses in the month that the request is made. In order to pay \$40 in the previous month, the ministry would have been satisfied that the criteria for a crisis supplement were met at that time. Any future requests made by the appellant will also be evaluated in terms of whether the legislative criteria have been met.
- The ministry also considers the history of requests made for a crisis supplement as the supplement is not meant as an ongoing source of supplemental income and is only for unexpected expenses that arise.
- The transportation allowance of \$52 per month is meant to be used for transportation expenses, including bus passes.

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a crisis supplement to cover the cost of food because all of the requirements of Section 57 of the EAPWDR were not met as the cost of food was not an unexpected expense or an item unexpectedly needed, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57 of the EAPWDR sets out the eligibility requirements for providing the crisis supplement, as follows:

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;

Parties' positions

The ministry wrote in the reconsideration decision that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically that the supplement is required to obtain an item unexpectedly needed of for an unexpected expense, the family unit has no resources available to meet the expense or obtain the item, and failure to obtain the item will result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act (CFCSA)*. In the reconsideration decision, the ministry found that the requirements that the appellant has no resources to purchase food and that failure to buy food would result in imminent danger to the appellant's physical health have been met; however, the ministry found that there was insufficient evidence to establish that the need for a supplement to purchase food was an unexpected expense.

In the reconsideration decision, the ministry was not satisfied that there was sufficient information to establish that the payments the appellant made for cable TV, optometry, physiotherapy, and a bus pass were unexpected expenses that prevented the appellant from purchasing food or that the appellant had an unexpected expense for food. The ministry was not satisfied that the teenaged grandchildren staying with the appellant was unexpected or that their staying with the appellant resulted in the appellant's unexpected expense for food. The ministry noted that the appellant's ministry file does not indicate there are children living with the appellant and no children are listed as living with the appellant on the appellant's shelter document. The ministry also noted that the appellant was aware that the appellant can provide documentation to show that the teenaged grandchildren are living with the appellant and then the appellant may receive additional funds to account for them. At the hearing, the ministry clarified that the ministry requires confirmation from the mothers of the grandchildren, or court documents, to establish that the grandchildren are approved to be living with the appellant. The ministry stated that the appellant chose to allow the appellant's grandchildren to live with the appellant without this approval, and the appellant was aware there would be extra expenses to the household. The ministry stated that the monthly transportation allowance of \$52 received by the appellant is meant to be used for transportation expenses, including bus passes.

In the Request for Reconsideration, the appellant wrote that all of the expenses, for cable TV (\$87.36), optometry (\$80.80), physiotherapy (\$45) and a bus pass (\$43), were necessary. The appellant argued that the appellant understood from the letter the appellant received from the ministry around January 2019 that they could get \$40 per month for food and help with hydro every month, and no conditions applied. The appellant wrote that the rental agreement showed a teenaged grandchild living with the appellant from August 8, 2019 to September 6, 2019, and another teenaged grandchild lived with the appellant for about 2 weeks. At the hearing, the appellant stated that the appellant needed to provide cable TV services while the teenaged grandchildren were residing with the appellant. The appellant wrote that the appellant requires physiotherapy treatments every month for \$45 and, at the hearing, the appellant stated that the appellant actually needs physiotherapy twice per month. At the hearing, the appellant stated that the appellant was assaulted by a woman with bear spray at the shelter and the appellant fell and broke the appellant's glasses, and the appellant needed new frames for the appellant's glasses.

The appellant also stated that the appellant asked for a crisis supplement for food in the previous month and the appellant did not have to provide any receipts and the ministry took the appellant's word for everything, did not mention the legislation, and paid the appellant \$40. The appellant stated that it is not fair that this request was denied by the ministry for the same information that the appellant had given in the previous month and that the appellant is being treated unfairly by the ministry.

Panel decision

Although there were different results in requests made by the appellant for crisis supplements in different months, the panel notes that the ministry explained at the hearing that each crisis supplement request is determined by the ministry on the circumstances existing in the month of the request and that each request will have slightly different considerations regarding the criteria in Section 57 of the EAPWDR.

The panel notes that the ministry considered whether a “crisis” existed for the appellant at the time of the appellant’s request for a crisis supplement for food in September 2019, or whether there was an unforeseen situation that suddenly interfered with the appellant’s ability to pay for food. The panel finds that the ministry was reasonable to conclude that the costs for monthly physiotherapy treatments and for a bus pass, for which the appellant receives a transportation allowance, were ongoing expenses as part of the appellant’s budget and not unexpected expenses that impacted the appellant’s ability to purchase food. The panel finds that the ministry reasonably determined that there was insufficient information to establish that the payment for cable TV was an unexpected expense that impacted the appellant’s ability to purchase food as the appellant allowed the appellant’s teenaged grandchildren to reside with the appellant, aware that there would be additional costs to the household and despite the lack of sufficient documentation to secure funding from the ministry to account for them.

The panel finds that the ministry was also reasonable to conclude that there was insufficient information to establish that the optometry expense was unexpected and suddenly interfered with the appellant’s ability to purchase food. While the appellant stated at the hearing that the appellant was assaulted and the appellant’s glasses were broken, this situation had not been mentioned to the ministry at the time of the appellant’s request or at reconsideration and there was no further information about when this assault occurred or confirmation on the invoice from the optometrist dated August 9, 2019 that the expense was for replacement frames or repairs beyond normal ongoing optometry expenses.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of food because all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision. The appellant’s appeal, therefore, is not successful.

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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019-10-23

PRINT NAME

Robert Kelly

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-10-23

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019-10-23