

APPEAL NUMBER
2020-00110

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated April 2, 2020 which held that the appellant did not qualify for a crisis supplement for firewood pursuant to s.59 EAAR. The Ministry held that while the appellant did not have the resources to obtain firewood and a failure to obtain firewood would result in imminent danger to the physical health of the appellant, the appellant did not demonstrate that the need for firewood was an unexpected need or expense.

PART D – RELEVANT LEGISLATION

s. 4, s. 22(4) Employment and Assistance Act (“EAA”)
s. 86, s. 59 Employment and Assistance Regulation (“EAAR”)

PART E – SUMMARY OF FACTS

The evidence before the Ministry at reconsideration was:

- On February 19, 2020 the appellant received a crisis supplement of \$350.00 for a cord of firewood.
- On March 11, 2020 the appellant requested another crisis supplement for firewood
- On March 11, 2020 the appellant was advised that they were not eligible for a crisis supplement for firewood.
- The appellant indicated that their home is very cold, especially at night and they require funds for firewood at \$240 per cord.
- The appellant submitted a request for reconsideration stating:
 - o Their home is heated solely by a wood burning stove.
 - o They have no wood supply.
 - o They should be able to purchase a cord of firewood for \$240.

The appellant's notice of appeal states:

- Winter this year was unexpectedly long and severe temperature-wise creating an unexpected expense.
- They used way more wood than normal just to keep warm.
- They don't understand why they were turned down for monetary help to purchase wood as they were previously granted the funds for the same reason in February 2020. Their home is currently very cold, and pipes may freeze causing further financial duress.

The appellant did not attend the hearing, the panel confirmed that notice of the hearing was emailed to the appellant on April 14, 2020 at 1:47pm and determined that pursuant to s.86 EAAR the hearing could proceed without the appellant.

At the hearing the Ministry relied on their reconsideration decision to argue that the appellant would not qualify for the crisis supplement because the need was not unexpected. The Ministry also provided the additional new evidence:

- On January 8 the appellant received a crisis supplement in the amount of \$275.
- When the appellant was issued the \$350 crisis supplement in February the appellant stated that they had baseboard heaters in their trailer but they were currently not working.
- The February crisis supplement was only issued after Ministry reconsideration.
- A cord of firewood contains 975 – 1000 pieces of wood which is about 16 inches in length.
- The appellant has owned the trailer that they reside in since November 19, 2014. The Ministry was not aware of the ownership until January 2020.

Pursuant to s.22(4) EAA, the panel must consider what is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Much of the new information provided by the Ministry at the hearing was not relied on by the Ministry in their reconsideration decision. The appellant did not have the opportunity to respond to the new evidence at the hearing. This was partly because the appellant did not attend the hearing, but also because the appellant was given no opportunity to respond to the Ministry's new information.

The Ministry was provided a letter of April 14, 2020 from the Tribunal which stated "If you wish to provide additional documentation not included in the Appeal Record, it should be provided to the Tribunal at least 3 business days before the hearing date. The Tribunal will distribute the documentation to the other party and the panel." The Ministry did not introduce the new information in accordance with the Tribunal instructions and instead choose to provide the evidence at the hearing.

The panel finds that even though the Ministry did not follow Tribunal procedure, the panel must accept the new information introduced by the Ministry. The Ministry representative at the hearing did a more extensive file review than what was done at reconsideration. The information provided by the Ministry representative is related to the decision under appeal and supports the Ministry position. Ideally the information of the Ministry would be provided

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to an appellant before the hearing so that the appellant would have the opportunity to respond. Given the relative simplicity of the new information, and that “evidence reasonably required for a full and fair disclosure related to the decision under appeal must be accepted”, the panel accepts the new information submitted by the Ministry at the hearing.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Ministry's decision to deny the appellant a crisis supplement for firewood pursuant to s.59 EAAR by reason that the appellant did not demonstrate that the need for firewood was an unexpected need or expense is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Legislation

Income assistance and supplements EAA

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.

Panels of the tribunal to conduct appeals EAA

22 (4)A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Crisis supplement EAAR

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.

(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 sum of

(A)the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B)the maximum set out in Table 1 of Schedule D and the maximum set out in 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.

Procedures

86 The practices and procedures of a panel include the following:

(a)a party to an appeal may be represented by an agent;

(b)the panel may hear an appeal in the absence of a party if the party was notified of the hearing;

The panel finds:

The Ministry states, at reconsideration, that the appellant has access to other community resources for firewood. The Ministry did not give any evidence or information to support what those resources were, so it is unclear if the appellant in fact had access to other resources. In any event, the Ministry found that the appellant did not have the resources to obtain firewood pursuant to s.59 EAAR. The panel finds that given that the appellant is on income assistance, and there is no evidence that the appellant was able to obtain firewood from any other resource, it was reasonable for the Ministry to determine that the appellant did not have the resources to obtain firewood.

The appellant provides evidence that their pipes easily freeze and their trailer becomes very cold without heating. The appellant also states that their home is heated solely with wood. The panel finds that given that the appellant would become very cold very quickly without heating, it was reasonable for the Ministry to determine that a failure to obtain firewood would result in imminent danger to the physical health of the appellant.

The Ministry was not satisfied that the need for firewood was an unexpected need or expense. The evidence at the hearing was that the appellant was aware that their trailer was only heated by wood, and they required firewood in the winter to heat their trailer. The appellant asked for a crisis supplement for firewood the months prior in January and February. The appellant was aware that wood heat was the only source of heat for their trailer because they informed the Ministry that their baseboard heaters stopped working in February. The panel finds that it was reasonable for the Ministry to determine that the appellant should have expected the need for firewood for the month of March, which is also a cold month. The appellant did not introduce evidence about why they need for firewood to heat their trailer for March was unexpected to them. Although the appellant indicated it was an unusually cold winter, the appellant did not provide evidence about that that would support the idea that the need to heat their trailer with firewood in March was unexpected to them.

For these reasons, the panel finds the Ministry's decision was reasonably supported by the evidence and confirms the decision.

PART G – ORDER	
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) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME MEGHAN WALLACE	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) April 29, 2020

PRINT NAME Linda Smerychynski	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) April 29, 2020
PRINT NAME Carlos Garcia	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) April 29, 2020