

APPEAL NUMBER
2020-00094

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated March 17, 2020, which determined that the appellant was not eligible for a crisis supplement for food because their request did not meet the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

Specifically the ministry found that as the appellant already received a crisis supplement for food for the same reason in January and receives an extra \$165 monthly nutritional supplement, their needs are not considered unexpected and they would have resources available. Given the above, ministry is also not satisfied that failure to receive a crisis supplement for food will result in imminent danger to the appellant's physical health.

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

Relevant Evidence Before the Minister at Reconsideration

Request for Reconsideration (March 3, 2020)

- Note included in reconsideration decision – they had to pay a hospital bill of \$122.64.
- Note included on letter from the appellant's doctor (February 6, 2020).
"this request is for Nutritional crisis due to my recent illness need more extra iron & protein in my diet, due diabetic problems, I could loose [sic] my feet therefore, Need more than usual I have applied 2 weeks ago for food crisses [sic] supplemet [sic]."

Letter from Appellant's Doctor (February 6, 2020)

- The appellant requested a letter to support them.
- The appellant has recently suffered a critical illness which is related to their diabetes.
- To support them in the community they request a TV stand, a dresser, tables and chairs and assistance with cleaning.

Ministry records show:

- The appellant is a sole recipient of disability assistance with no dependants.
- Their monthly income is \$1,440.42 from disability assistance and CPP.
- Their assistance includes a \$165 nutritional supplement.

On January 13, 2020 the appellant requested a crisis supplement for food. They said friends came over to their house, ransacked their food and ate it all.

On February 11, 2020 the appellant requested a crisis supplement for food. They reported that they had to buy boots since the ones they had were old and they had people over who stole their food.

On February 11, 2020 the request was denied.

Letter from Appellant's Doctor (August 6, 2019)

- The appellant recently experienced a bacterial infection which has been caused by chronic atopic rhinitis (at least four and a half years) – treated with antibiotics to prevent a worse illness like pneumonia.
- They have mental illness and diabetes, both of which are also chronic and significant diagnoses.
- The appellant is being treated with medications for schizophrenia and diabetes.
- They are struggling with mental illness, chronic nasal discharge, watery eyes and drowsiness feeling "strung out" because of medication.
- The appellant is in need of new clothes for their volunteer work and school; these are vitally important for their health, to protect them against the weather - which will help prevent complications such as foot ulcers from their diabetes.
- They are also needing to pay debts/hospital bills and see a lawyer.
- The appellant intends to go to a rehabilitation centre for private lessons studying information technology, reading newspapers and library books.
- They aim to become a translator/interpreter and are in need of a tutor.

Additional Evidence

Appellant

Notice of Appeal (NOA) (March 23, 2020)

Attachments to the NOA

Letter from appellant's doctor (April 9, 2020)

The appellant has been suffering from flat feet diagnosed many years ago. This requires support through orthotics and safe footwear. They also have peeling feet and are concerned this is a medical reaction.

Letter to "Disability Office" (April 12, 2020) - from appellant inquiring about funding for school

Ministry

The ministry advised that its submission will be the reconsideration summary (May 6, 2020).

The panel determined that the additional information, attached to the NOA and included on the reconsideration decision, is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issues on appeal are:

- Whether the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement for food because their request did not meet the criteria set out in Section 57 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.
- Whether the ministry's determination, that as the appellant already received a crisis supplement for food for the same reason in January and receives an extra \$165 monthly nutritional supplement, their needs are not considered unexpected and they would have resources available, was reasonable; and
- Given the above, whether the ministry's determination that failure to receive a supplement for food will result in imminent danger to the appellant's physical health, was reasonable.

Relevant Legislation

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.

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...

Appellant Argument

The appellant argues that they require a nutritional crisis supplement. As a result of their recent illness they need extra iron and protein in their diet and due to diabetic problems, they could lose their feet.

Ministry Argument

The ministry argues that the need for a crisis supplement for February is not considered unexpected as the appellant received a crisis supplement for food for the same reason in January. As well, the ministry argues that although it is not unexpected that the appellant needs extra protein for their diabetes, they already receive an extra \$165 monthly nutritional supplement for their extra nutritional needs. And, in

addition to the extra \$165 nutritional supplement the appellant also received extra money for food, clothing and household items in January. Therefore the ministry argues that it is unclear as to why the appellant would still not have resources available to meet their immediate food needs.

Given the above, the ministry argues that it is not satisfied that failure to receive a supplement for food will result in imminent danger to the appellant's physical health.

Analysis

Section 5 of the EAPWDA states, "the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it."

Section 57 of the EAPWDR states that, "The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance...if...a person in the family unit requires the supplement to meet an unexpected expense...and is unable to meet the expense...because there are no resources available to the family unit, and ...the minister considers that failure to meet the expense...will result in imminent danger to the physical health of any person in the family unit..."

Section 57(1)(a) – unexpected expense and no resources

The appellant argues that they require a nutritional crisis supplement for extra iron and protein in their diet and due to diabetic problems, they could lose their feet.

The ministry argues, the need for a crisis supplement is not considered to be unexpected in February as the appellant received a crisis supplement for food for the same reason in January. Ministry records show that on January 13, 2020 the appellant requested a crisis supplement for food as they said friends came over to their house, ransacked their food and ate it all. On February 11, 2020 the appellant requested a crisis supplement for food as they said they had people over and they stole their food.

As the same reason for a crisis supplement for food was provided in February as in January, the panel finds the ministry's determination, that the need was not unexpected, was reasonable.

As well, the ministry argues that although it is not unexpected that the appellant needs extra protein for their diabetes, they already receive an extra \$165 monthly nutritional supplement for their extra nutritional needs. And, in addition to the extra \$165 nutritional supplement the appellant also received extra money for food, clothing and household items in January. Therefore the ministry argues that it is unclear as to why the appellant would still not have resources available to meet their immediate food needs.

The appellant submitted three letters from their doctor which provide information on their medical situation and financial needs.

August 6, 2019

The appellant's doctor stated that they recently experienced a bacterial infection, which was caused by chronic atopic rhinitis (at least four and a half years) – treated with antibiotics to prevent a worse illness like pneumonia. They have mental illness and diabetes, both of which are also chronic and significant diagnoses. The appellant is being treated with medications for schizophrenia and diabetes, struggling with mental illness, chronic nasal discharge, watery eyes and drowsiness feeling "strung out" because of medication. They are in need of new clothes for their volunteer work and school; these are vitally important for their health, to protect them against the weather - which will help prevent complications such as foot ulcers from their diabetes. In addition, they are also needing to pay debts/hospital bills and

see a lawyer.

February 6, 2020

The appellant's doctor stated that the appellant recently suffered a critical illness, which is related to their diabetes and to support them in the community he requests a TV stand, a dresser, tables and chairs and assistance with cleaning.

April 9, 2020

The appellant's doctor stated that the appellant has been suffering from flat feet diagnosed many years ago which requires support through orthotics and safe footwear. They also have peeling feet and are concerned this is a medical reaction.

A note included in the reconsideration decision states the appellant had to pay a hospital bill of \$122.64. As well, the appellant provided a copy of a letter to the "Disability Office" (April 12, 2020) inquiring about funding for school.

Ministry records show the appellant's monthly income is \$1,440.42 from disability assistance and CPP (includes a \$165 nutritional supplement).

The panel acknowledges that the appellant may have some unpaid bills, expenses related to their medical issues and wishes to go to school. However, the panel finds the ministry's determination, that:

- as the appellant's monthly income is \$1,440.42,
 - they are receiving an additional \$165 monthly nutritional supplement, and
 - they received extra money for food, clothing and household items in January,
- they should have the resources to purchase the extra protein and iron, reasonable.

Section 57(1)(b)(i) – failure to meet expense will result in imminent danger to the physical health

As the panel determined that the ministry reasonably found that the appellant has sufficient resources to address their nutritional needs, the panel finds that the ministry's determination that failure to receive a supplement for food will not result in imminent danger to the appellant's physical health, to also be reasonable. As well, the panel finds that the letters from the appellant's doctor (February 6 and April 9, 2020), do not suggest that failure to receive a supplement for food will result in imminent danger to the appellant's physical health.

Conclusion

The panel acknowledges the difficulties the appellant faces because of their on-going medical issues. However, the panel finds the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement for food because their request did not meet the criteria set out in section 57 of the EAPWDR was reasonably supported by the evidence.

The appellant is not successful on appeal.

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PARTG-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)

PARTH-SIGNATURES

PRINTNAME

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/05/17

PRINTNAME

Susanne Dahlin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/05/17

PRINTNAME

Nancy Eidsvik

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/05/17