

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 21, 2020, which determined that the appellant was not eligible for a crisis supplement to purchase beds from a specific furniture liquidator because their request did not meet all the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

#### Criteria

1. The family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.
2. They are unable to meet the expense or obtain the item because there are no resources available to the family unit.
3. Failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

Specifically, the ministry was not satisfied that there was imminent danger to the appellant or their child's physical health if the expense was not met.

### **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**

#### **Ministry records show:**

- The appellant is a sole recipient with one dependent child. They have persons with disabilities designation.
- On July 8, 2020 the ministry determined they were eligible for a crisis supplement to purchase beds for themselves and their child. As they reside in the catchment area for a non-profit organization that provides clean, sanitized used beds to ministry clients who qualify for a crisis supplement, the ministry determined this would be the least expensive way to meet their need.
- An estimate was provided for \$540 including beds with frames and full bedding packages for the appellant and their child.
- On July 9, 2020 the appellant's mother stated that they would like to purchase the beds instead from a specific furniture liquidator.
- On July 15, 2020 the appellant provided a letter from a physician, dated July 14, 2020, stating that due to the appellant's sciatica and anxiety disorder, the furniture liquidator would be a very appropriate program.
- The ministry determined that as equivalent beds and bedding could be provided by the non-profit organization for \$540 instead of from the furniture liquidator (\$822.08), the appellant was eligible for \$540 to purchase beds. The ministry offered to purchase the beds from the non-profit organization or provide the appellant with \$540 so they could purchase the beds from the furniture liquidator.
- In its reconsideration decision the ministry stated it previously determined that the need for beds is unexpected and the appellant does not have the resources to purchase them.

#### **Estimate from furniture liquidator (July 7, 2020)**

- Quotes for double and twin – Total \$822.08

#### **Letter from physician (July 14, 2020)**

The appellant and their child are patients in the physician's family practice. They have suffered terrible disruption and upset during a prolonged bed bug infestation which lasted several months. The bed bugs have been eradicated, however the appellant and their child have been sleeping on the floor after having to throw away their heavily infested mattresses and box springs.

As a single parent on a fixed income the appellant is unable to afford new bedding and mattresses. The physician has recently become aware of a program through a specific furniture liquidator, which may be able to provide replacement bedding and mattresses of high quality at little or no cost. Given the appellant's sciatica and anxiety disorder, the furniture liquidator would be a wonderful and very appropriate program for this family as the appellant would be able to see the beds/bedding before they are delivered and more likely to secure a mattress that prevents further injury to their back. By way of this letter, the physician would like to advocate for their patient to secure a replacement mattress through the furniture liquidator program so the appellant and their child can return to their normal lives as soon as possible.

#### **Letter from physician (August 3, 2020)**

- Information included in request for reconsideration below.

### **Request for Reconsideration (August 7, 2020)**

The appellant experienced an extensive bed bug infestation that required them to discard the beds and bedding from their unit. At the same time, the appellant also was forced to throw away numerous items of furniture, including their child's desk and office chair. As this process started at the onset of the pandemic lock down the appellant had to wait several months for adequate resolution of the infestation. Therefore, the appellant and their child have been sleeping on the floor of their apartment.

The appellant applied and was granted a crisis supplement for beds but the funds approved (\$540) fall far short of the \$800 quote for replacement beds from the furniture liquidator. With the furniture liquidator the family would be able to view the beds in advance and be assured of their good quality.

The appellant had been sleeping on a bed provided by the advocacy group for the past 10 years, which provided insufficient lumbar support required to prevent exacerbation of their chronic low back pain and sciatica. It is known that the furniture liquidator provides superior quality beds and therefore most appropriate for the appellant's particular medical conditions.

As a single parent living on social assistance, the appellant does not have the extra funds to afford this unexpected expense. The appellant also now has the added expenses of purchasing a desk and office chair for her child who will be returning to school in the fall.

(stamp with appellant's physician's name, address and phone number)

### **Additional Information**

#### **Appellant**

#### Notice of Appeal (September 10, 2020)

#### *Submission with the Notice of Appeal*

The appellant applied for a crisis furniture supplement to cover the damage in their home due to a bed bug outbreak. They were approved but were advised they would only be eligible for a generic bed through a non-profit organization. Ordinarily they would have no problem with this, but due to their and their child's medical issues, a generic bed is not medically suitable.

They are familiar with a furniture liquidation store, commonly used by the ministry for similar requests, that offers a variety of new or gently used beds to look at and choose from. This would give the appellant the opportunity to try different beds to find one that is most suitable for their medical issues, as per the advice of their physician.

The appellant's medical situation was explained to the ministry but the ministry would not pay the \$800 as it is obligated to pay the least cost. Instead, the ministry could provide the appellant with \$540 (the value of the non-profit organization beds), which the appellant could use towards beds of their choice. The appellant explained that they do not have the extra funds.

The ministry agreed that the non-profit beds may be medically unsuitable given the letter from the appellant's physician but suggested they use their additional \$300 (pandemic) fund. This seemed inappropriate given this fund is to ensure they and their daughter are able to take proper precautions to

stay safe during the pandemic, not for beds that are routinely purchased through the crisis furniture supplement.

While the ministry may be obligated to purchase beds at the least available cost, it did not consider their medical suitability. The appellant does not see any wording in the legislation that would deem their crisis request or the amount invalid. They do not have a pattern of reliance on crisis supplements, and only requested additional funds on the advice of their physician. The ministry acknowledged that the request was unexpected and that there were no resources available, and that fulfilling this request would prevent harm.

While the ministry's thinking may be that it is the payor of last resort, or that they must provide the least expensive option, the appellant believes the furniture liquidator's beds are the least expensive, but still suitable option. The health concerns described in their physician's letter clearly advises that a generic bed purchased from the non-profit organization is not suitable and that the option to try a bed which would only reasonably be possible from a provider where the appellant has options for different beds, with a maximum quote of \$800, is most suitable.

#### **Ministry Submission (September 28, 2020)**

The ministry's submission was the reconsideration summary provided in the record of ministry decision.

The panel determined that the additional information 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 issue on appeal is whether the ministry's reconsideration decision, which determined that the appellant was not eligible for a crisis supplement to purchase beds from a specific furniture liquidator because their request did not meet all 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.

### Criteria

1. The family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.
2. They are unable to meet the expense or obtain the item because there are no resources available to the family unit.
3. Failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

Ministry records show the ministry previously determined that the appellant's need for beds is unexpected and they do not have the resources to purchase them.

Therefore, specifically the issue on appeal is whether the ministry's decision, which determined that failure to meet the expense or obtain the item will not result in imminent danger to the physical health of any person in the family unit, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant?

In other words, as the ministry determined the request for the beds from the non-profit met the criteria for a crisis supplement, the issue is whether it was reasonable for the ministry to find that imminent danger to physical health will not result if the request for the beds from the furniture liquidator is not granted.

## **Relevant Legislation**

### **Employment and Assistance for Persons with Disabilities Act**

#### **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.

### **Employment and Assistance for Persons with Disabilities Regulation**

#### **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 a bed provided by the advocacy group provides insufficient lumbar support required to prevent exacerbation of their chronic low back pain and sciatica. Due to their and their child's medical issues, a generic bed is not medically suitable. The furniture liquidator provides superior quality beds and therefore most appropriate for the appellant's particular medical conditions.

The appellant also argues that while the ministry's thinking may be that they must provide the least expensive option, they believe the furniture liquidator's beds are the least expensive, but still suitable option. The health concerns described in their physician's letter clearly shows that a generic purchase from the non-profit organization is not suitable, and that the option to try a bed which would only reasonably be possible from a provider where the appellant has options for different beds, with a maximum quote of \$800, is most suitable.

As well, the appellant argues that the ministry acknowledged that fulfilling this request would prevent harm.

### **Ministry Argument**

The ministry argues there is no evidence to suggest a bed from the non-profit organization would be of poor quality or would further exacerbate the appellant's back pain at this time. As well, the appellant has not provided any evidence to suggest their child has a medical condition that would be worsened by a bed from the non-profit organization. The ministry argues that it is unable to establish that failure to purchase beds from the furniture liquidator instead of the non-profit organization will result in imminent danger to the appellant's or their child's physical health.

#### Section 5, EAPWDA - Disability assistance and supplements

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." Ministry records show the appellant is a sole recipient with one dependent child. They have persons with disabilities designation. Therefore, the panel finds the ministry reasonably determined that the appellant can be considered for disability assistance under section 5 of the EAPWDA.

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

The appellant's position is that due to their and their child's medical issues, a generic bed from the non-profit organization is not medically suitable. The health concerns described in their physician's letter clearly shows that a purchase from the non-profit organization is not suitable, and that the option to try a bed which would only reasonably be possible from a provider where the appellant has options for different beds, with a maximum quote of \$800, is most suitable. The appellant also argues that the ministry acknowledged that fulfilling this request would prevent harm.

The ministry's position is that there is no evidence to suggest a bed from the non-profit organization would be of poor quality or would further exacerbate the appellant's back pain. As well, the appellant has

not provided any evidence to suggest their child has a medical condition that would be worsened by a bed from the non-profit organization.

The letter from the appellant's physician (July 14, 2020) states that given the appellant's sciatica and anxiety disorder, with the furniture liquidator, the appellant would be able to see the beds/bedding before they are delivered and more likely to secure a mattress that prevents further injury to their back.

The letter from the appellant's physician (August 3, 2020), and included in the request for reconsideration (August 7, 2020) states the appellant had been sleeping on a bed provided by the advocacy group for the past 10 years, which provided insufficient lumbar support required to prevent exacerbation of their chronic low back pain and sciatica. However, the panel finds there is insufficient evidence to demonstrate that the beds from the non-profit organization, now, will provide insufficient lumbar support.

In addition, although the appellant indicated that they and their child have medical issues, the panel finds there is insufficient evidence to demonstrate that their child has medical issues. And, although the medical information from the appellant's physician states the appellant suffers from anxiety disorder, low back pain and sciatica and the appellant argues that the ministry acknowledged that fulfilling this request would prevent harm, the panel finds there is insufficient evidence to show "imminent danger" to the appellant or their child's physical health, if the funds to purchase the beds from the furniture liquidator is not granted.

Therefore, the panel finds the ministry reasonably determined that the appellant was not eligible for the additional funds to purchase beds from the furniture liquidator, in accordance with section 57(1)(b)(i) of the EAPWDR.

The panel acknowledges the difficulties the appellant faces but is bound by the legislation.

## **Conclusion**

In conclusion, the panel finds the ministry's reconsideration decision that determined the appellant was not eligible for a crisis supplement to purchase beds from a specific furniture liquidator, because their request did not meet all the criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

APPEAL NUMBER  
2020-00214

**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

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/10/19

PRINT NAME

Susanne Dahlin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/10/19

PRINT NAME

Edward Wong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/10/19