

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated December 12, 2020 which held that the appellant was not eligible for a crisis supplement to cover the cost of a desk and chair pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

The ministry determined that the appellant meets the criterion of section 5 of the EAPWDA as the appellant is eligible for disability assistance and meets the criteria of section 57 1(a) of the EAPWDR; namely that the appellant does not have the resources to cover the cost of the request.

However, the ministry determined that the appellant failed to establish that, pursuant to subsection (1) (a), the crisis supplement for furniture is required to meet an unexpected expense or was unexpectedly needed and pursuant to subsection 1 (b), that failure to meet the need would result in imminent danger to his 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 (1)

PART E – SUMMARY OF FACTS

Evidence at Reconsideration

Request for Reconsideration (RFR) signed and dated November 9, 2020, which, in part, stated that “I would like a reconsideration re: a new desk and chair as I am working with a social worker to regain my writing and reading ability. I do not have the adequate work station to improve upon my writing and reading as the only space I have is a kitchen table that is used throughout the day for food, where family members gather, which does not allow me the space to learn nor the space my social worker will need to teach”.

Evidence at Appeal

Notice of Appeal signed and dated January 5, 2021, which, in part, stated “I am in need of desk and chair so I can re-learn how to read and write properly. I have had a brain injury that resulted from being physically assaulted”.

Evidence at the Hearing

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

- He lives in a 3-bedroom townhouse with his spouse and has no kitchen table.
- A worker at the third-party administrator completed the RFR and mentioned that the appellant has a kitchen table and chairs, but the worker has never been to his home.
- He has severe arthritis in the back and legs and swelling in his legs and feet. He needs a desk and chair to help with blood circulation.
- The appellant explained that he needs many things for his medical condition, but they have been denied by the ministry.
- He cannot work or read and write due to a brain injury. He needs a place for his books and for the social worker to help him in this process.
- When in hospital, the doctor, nurses, physical therapist, and occupational therapist advised that he needs desk and chair to re-learn how to read and write and to re-learn how to sign his name.
- The third-party administrator will not help or get involved in the appellant’s request to the ministry regarding a desk and chair.
- The appellant’s friend gave him \$200.00 to purchase books, pens, and pencils because the ministry would not help him obtain these items.

At the hearing, the ministry relied on its reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The issue at appeal is whether the ministry's decision that the appellant failed to establish that the need for a crisis supplement to cover the cost of a desk and chair was an unexpected expense or was unexpectedly needed and that failure to meet the need will result in imminent danger to his physical health, as required by Section 57 (1) (a) and (b) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 5 of EAPWDA provides as follows:

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.

Section 57(1) of the EAPWDR sets out the eligibility requirements for providing 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*.

The Appellant's Position

The appellant argued that he needs a desk and chair so he can re-learn to read and write; an ability he lost due to an assault that led to a brain injury.

The Ministry's Position

The ministry argued that the appellant is not eligible for a crisis supplement for the cost of a desk and chair pursuant to section 57(1) of the EAPWDR because the legislated criteria has not been met. The ministry argued that the appellant did not demonstrate that the need for a chair and desk was unexpected. The ministry also argued that the appellant did not demonstrate that a failure to obtain these items will result in imminent danger to physical health.

The Panel's Decision

Unexpected Need

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a

family unit that is eligible for disability 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 panel finds that at the time of reconsideration, the appellant did not provide any evidence to demonstrate that a desk and chair are unexpected expenses or unexpectedly needed. At the hearing, the appellant explained why he needed the desk and chair but did not explain why this need is unexpected. Though the panel sympathizes with the appellant's situation and the reasons for his need of a desk and chair, the evidence does not demonstrate that this need was unexpected.

Due to a lack of evidence in support of the appellant's request, the panel finds that the ministry reconsideration decision which denied the appellant a crisis supplement for a desk and chair pursuant to section 57(1) of the EAPWDR was supported by the evidence and was a reasonable application of the application legislation.

Imminent Danger

Section 57 (1)(b) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible 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 a crisis supplement for a desk and chair. The panel finds that the appellant has not provided any evidence to support that a failure to obtain a desk and chair will cause imminent danger to his physical health. Though the panel sympathizes with the appellant's situation and the reasons for his need of a desk and chair, the evidence does not demonstrate that a failure to meet this need will lead to imminent danger to his health.

Due to a lack of evidence in support of the appellant's request, the panel finds that the ministry reconsideration decision which denied the appellant a crisis supplement for a desk and chair pursuant to section 57(1) of the EAPWDR, was supported by the evidence and was a reasonable application of the application legislation.

Conclusion

The panel therefore finds that the ministry's decision to deny the appellant's request for a crisis supplement to cover the cost a desk and chair pursuant to section 57(1) of the EAPWDR 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
2021-00006

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)

2021/02/01

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/01

PRINT NAME

Joe Rodgers

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/02/01