

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 21, 2021, which denied the appellant's request for a crisis supplement to cover the cost of a bed. The ministry found that all of the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met as there was insufficient evidence to show that:

- the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit; and,
- 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.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR), Section 59

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of the reconsideration decision consisted of the appellant's Request for Reconsideration dated March 4, 2021 in which the appellant wrote:

- Up to 21 days for a decision is "just awful" and "there is no reason for this."
- The appellant wasted \$250 because the appellant got refused the money to pay for the two beds.
- Since February 11, 2021, the appellant has not had a home, clothes, food nor money. The appellant went through a difficult couple of weeks that the appellant "wouldn't wish" on the appellant's "worst enemy."
- The appellant is so tired of everything that the appellant does not care what the ministry does, but the appellant wished the ministry decision could be provided "overnight." Up to 3 weeks for someone to read the request and to say 'yes' or 'no' "is ridiculous," as far as the appellant is concerned.

Additional information

In the appellant's Notice of Appeal dated May 4, 2021, the appellant expressed disagreement with the ministry's reconsideration decision and wrote that the appellant applied for a supplement for a bed and was denied.

At the hearing, the appellant stated:

- The appellant is disabled. The appellant is frustrated and finds it difficult, due to back pain, to remain standing while on the telephone.
- The appellant called the "1-800" number for the ministry and explained to the ministry what the appellant proposed to do. The ministry said the proposal was "fine." The ministry said to go ahead and purchase the bed. The appellant told the ministry that the appellant would require help to pay for the balance.
- The appellant asked the ministry prior to putting a "down payment" on the bed.
- The appellant put money down to hold the bed. The appellant received a receipt that showed the amount of the deposit and the amount remaining to pay for the bed. The appellant took the receipt to show the ministry and was waiting for the balance owing from the ministry.
- The appellant went to the ministry office to get the cheque for the balance owing on the bed and the ministry denied the appellant because they said the appellant had already purchased a bed. The appellant "comes from a world" where one must pay for something before it is acquired.
- The appellant considers \$225 was wasted. This is money that is meant to be available for clients of the ministry to use.
- The cost of the bed was \$679. The appellant connected with someone online who was selling a bed. At first, the appellant was trying to buy a bed from an acquaintance. The appellant gave them some money and the ministry had said that was okay.
- The appellant put \$175 down on the first bed and \$150 down on a second bed.
- The appellant is only seeking funding for one bed.
- The appellant worked most of the appellant's life and paid for the house owned by the appellant's mother. The appellant paid lots of income taxes over that time.
- The appellant had to quit work to take care of the appellant's mother. The appellant's

mother entered a program to help with paying for the house and, when they could not get a hold of the appellant's mother, they went before a judge and took the house. They took everything in the house to the dump.

- The appellant walked the streets for weeks.
- The appellant found a room to live in when the appellant made the request for the crisis supplement on February 26, 2021. The appellant has been sleeping on the floor.
- The appellant put down a deposit of \$75 on the first bed and \$125 on a second bed.
- The appellant does not currently have a bed and is sleeping on the floor, which is hurting the appellant's back. The appellant can barely walk due to back pain.

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

- There is a typographical error in the reconsideration decision as the appellant is not in receipt of "disability" assistance but has the status as a Person with Persistent Multiple Barriers to employment (PPMB) and is in receipt of income assistance.
- The appellant stated that there was a need for \$500 from the ministry but it was not clear to the ministry whether these funds were required to obtain a bed, or to pay back money owed to a neighbour, or if the appellant had already paid for the bed.
- The background information in the reconsideration decision is gathered from the client's file with the ministry, including a record of conversations with the client, as well the information provided by the client in the Request for Reconsideration.
- When there is contradictory information in the notes on the client's file, the ministry can ask for clarification. Because there are some discrepancies between the information that the appellant provided and the information in the ministry's file regarding the purchase of a bed, the ministry might have sought clarification at that time.
- The ministry agreed that there was a possibility of misunderstanding about the arrangement for the appellant to purchase the bed and a belief by the ministry that the bed had already been acquired. The ministry does not consider putting a deposit on a bed as having "purchased" a bed.
- The ministry does not currently have access to the client's file to check the notes of conversations with the appellant. The ministry does not have any information further to the information in the reconsideration decision.
- If the ministry had the information provided by the appellant on the hearing, the ministry would make a different decision on the appellant's request for a crisis supplement. With the appellant's information about not having a bed to sleep in and having to sleep on the floor and this causing back pain, the ministry would consider the lack of a bed as creating an imminent danger to the appellant's physical health.

Admissibility of Additional Information

The ministry did not object to the admissibility of the oral testimony on behalf of the appellant. The panel considered that the appellant's testimony that a bed had not been obtained and the appellant had only ever paid a deposit towards purchase of a bed, while new information, is related to the ministry's denial of a crisis supplement for a bed and, therefore, is reasonably required for a full and fair disclosure of all matters related to the decision under appeal pursuant to Section 22(4) 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 a bed because all of the requirements of Section 59 of the EAR were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59 of the EAR sets out the eligibility requirements for providing the crisis supplement, as follows:

Crisis supplement

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*.

Ministry's position

The ministry wrote in the reconsideration decision that the provisions of Section 59 of the EAR 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 requirement that there is an unexpected expense or an item unexpectedly needed had been met; however, the ministry found that there was insufficient evidence to establish that the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit and failure to meet the expense or failure to obtain the item will result in imminent danger to the physical health of any person in the family unit.

In the reconsideration decision, the ministry was not satisfied that there was sufficient information to establish that the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit. The ministry wrote that the appellant stated that a bed had been bought from the appellant's neighbour for \$679.00. The ministry wrote that the appellant's original request stated that the appellant needed \$500 from the ministry but it was not clear if the appellant needed these funds to obtain the bed, to pay

back the neighbour, or if the appellant had already paid for the bed. At the hearing, the ministry agreed that there was a discrepancy between the ministry's background information based on the file notes, which was unclear, and the appellant's testimony that no bed was obtained. The ministry stated that if the ministry had the information provided by the appellant at the time of the request, the ministry would have made a different decision on the appellant's request.

The ministry also wrote that there was insufficient evidence to show that 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. The ministry wrote that there was no evidence that failure to obtain a bed or the \$500 requested by the appellant will result in imminent danger to the appellant's physical health as the appellant stated that the bed had been bought. At the hearing, the ministry stated that, with the appellant's information about not having a bed to sleep in and having to sleep on the floor and this causing back pain, the ministry would consider the lack of a bed to create an imminent danger to the appellant's physical health.

Appellant's position

In the Request for Reconsideration, the appellant wrote that the appellant wasted \$250 because the appellant got refused the money from the ministry to pay for the two beds. The appellant wrote that since February 11, 2021, the appellant has not had a home, clothes, food nor money. At the hearing, the appellant clarified that the appellant had asked the ministry prior to putting a deposit on a bed and the ministry had approved the appellant's proposal. The appellant stated that the appellant put money down to hold the bed and received a receipt that showed the amount of the deposit and the amount remaining to pay for the bed, which the appellant took to show the ministry. The appellant stated that it was when the appellant went to the ministry office to get the cheque for the balance owing on the bed that the ministry denied the appellant's request because they said the appellant had already purchased a bed. The appellant argued that the bed cannot be obtained until it is paid for. The appellant stated that the appellant found a room in which to live and the appellant does not currently have a bed and is sleeping on the floor, which is hurting the appellant's back. The appellant stated that the appellant can barely walk due to back pain.

Panel decision

No resources

Section 59 of the EAR allows for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that the family unit has no resources available to meet the expense or obtain the item. The ministry found that there was insufficient evidence to establish that the appellant was unable to obtain the bed because there were no resources available since the evidence was unclear. The ministry wrote that the appellant had stated that the appellant bought a bed from a neighbour for \$679 and the appellant requested \$500 from the ministry; the ministry was uncertain whether the \$500 was to obtain the bed, to pay the

neighbour, or if the appellant had already paid for the bed. At the hearing, the ministry agreed that there was a discrepancy between the ministry's background information based on the file notes, which was unclear, and the appellant's testimony at the hearing that no bed was obtained. At the hearing, the ministry agreed that there was a possibility of misunderstanding by the ministry that the arrangement for the appellant to purchase the bed meant the appellant had already purchased, or acquired, the bed. The ministry stated that the ministry does not consider putting a deposit on a bed as having "purchased" a bed.

The ministry noted in the original decision that the appellant advised the ministry that the appellant had set up a deal with a neighbour and put a deposit on a bed and also noted the appellant stated that there was a belief that the ministry would assist with the balance owing on the bed. The panel finds that the ministry's notes are consistent with the appellant's testimony at the hearing that the appellant asked the ministry prior to putting a deposit on a bed and the ministry had approved the appellant's proposal. The appellant stated at the hearing that the appellant put money down to hold the bed and received a receipt that showed the amount of the deposit and the amount remaining to be paid for the bed. This receipt was not provided on the appeal and may have been helpful in clarifying the amount paid by the appellant since there was inconsistency in the appellant's information as to the amount of the deposit(s). However, the appellant's testimony at the hearing was consistent with the appellant's information in the Request for Reconsideration that the appellant "wasted" the deposits forfeited on arrangements to pay for two different beds. Given the overall consistency in the appellant's evidence and in the absence of any further clarifying information from the ministry, the panel places significant weight on the appellant's oral testimony.

The ministry stated at the hearing that if the information provided by the appellant at the hearing had been available to the ministry at the time of the request, the ministry would have made a different decision. Given the appellant's testimony at the hearing that the appellant did not acquire a bed, the panel finds that the ministry unreasonably concluded that there was insufficient evidence to establish that the appellant was unable to obtain the bed because there were no resources available.

Imminent danger to physical health

Section 59 of the EAR allows for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that 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). The ministry clarified at the hearing that the appellant is a single recipient of income assistance and as the appellant is a single recipient with no dependent children, the panel finds that the ministry was reasonable not to consider that failure to meet the expense or obtain the item will result in removal of a child under the CFCSA.

In the reconsideration decision, the ministry wrote that there was no evidence that failure to obtain a bed or the \$500 requested by the appellant will result in imminent danger to the appellant's physical health as the appellant stated that the bed had been bought. The appellant stated at the hearing that the appellant does not currently have a bed and is sleeping on the floor, which is hurting the appellant's back. The appellant stated that the appellant can barely walk due to back pain. The appellant stated at the hearing that the appellant is "disabled" and the ministry confirmed that the appellant has PPMB status with the ministry. At the hearing, the ministry stated that with the appellant's information about not having a bed to sleep in, having to sleep on the floor and experiencing back pain as a result, the ministry would consider the lack of a bed as creating an imminent danger to the appellant's physical health.

The ministry stated at the hearing that if the information provided by the appellant at the hearing had been available to the ministry at the time of the request, the ministry would make a different decision. Given the appellant's testimony at the hearing that the appellant did not acquire a bed and having to sleep on the floor has resulted in back pain so that the appellant can "barely walk," and considering that the appellant has a health condition that results in barriers, together with the ministry's position regarding the danger to not having a bed, the panel finds that the ministry unreasonably concluded that there was not enough evidence to establish that the failure to obtain the bed will result in imminent danger to the appellant's physical health.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of a bed because all of the requirements of Section 59 of the EAR were not met, was not reasonably supported by the evidence and the panel rescinds the ministry's decision. The appellant's appeal, therefore, is successful.

APPEAL NUMBER
2021-0092

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)

2021-05-17

PRINT NAME

Jeanne Byron

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-05-17

PRINT NAME

Sameer Kajani

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-05-17