

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) Reconsideration Decision (RD) dated July 8, 2022, which held that the Appellant was not eligible for a crisis supplement for food, rent and medication.

Specifically, the Ministry determined that the Appellant was not eligible for a crisis supplement because the Appellant is ineligible for income assistance (IA) and hardship assistance, and because it has not been demonstrated that his need for a crisis supplement for food, rent and/or medication was unexpected.

Part D – Relevant Legislation

Employment and Assistance Act (EAA) Sections 2, 4 and 17

Employment and Assistance Regulation (EAR) Section 59

The relevant legislation is provided in the Appendix.

Part E – Summary of Facts

The Appellant is an applicant for disability assistance (DA) with no dependents.

Information provided by the Ministry in the RD includes the following:

- On April 28, 2022, the Appellant applied for income assistance (IA) and was denied eligibility by the Ministry because he is a full-time student;
- On June 13, 2022, the Appellant reapplied for IA using “*a streamlined application*” process, which was again denied by the Ministry because the Appellant is a full-time student;
- On June 21, 2022, the Appellant requested a crisis supplement for food. According to the Ministry, the Appellant “*explained that (he) need(s) everything because (he is) running out of medication and (his) rent is five months overdue*”, and the Appellant told the Ministry “*that (he has) a lifelong disability that makes it difficult for (him) to think of solutions. (The Appellant) explained that (his) mother has loaned (him) her entire savings to keep (him) afloat while (he is) in school, but she cannot continue to do so*”. In addition, the Appellant told the Ministry “*that (he has) not had decent food in over a month, and (is) at risk of infection ... (and) also at risk of homelessness because of (his) unpaid rent*”, and he “*submitted two pictures of (his) cupboards and a picture of (his) fridge*”; and,
- On June 22, 2022, the Appellant was told that his request for a crisis supplement had been denied “*because he was not eligible for assistance*”.

The evidence before the Ministry when it made its RD also consists of the following:

- A Request for Reconsideration (RFR), dated June 22, 2022, in which the Appellant says that:
 - He is applying for DA, not IA, and he has provided the Ministry with “*(his) assessments ... and (his) doctor’s note*”;
 - He is not receiving “*a living allowance*” from Canada student loans; and,
 - He is getting evicted from his residence;
- Three undated colour photographs, two of which are pictures of kitchen cupboards and one of which shows the inside of a refrigerator; and,
- A two-page “Request for Crisis Supplement – Food” application form (the Crisis Supplement Application), signed by the Appellant and dated June 21, 2022. In response to the question “What do you need?”, the Appellant has written “*Everything ... I just got approved for Pharmacare but the deductible is ... \$85 which I don’t have ... my rent is 5 months overdue and I’m going to be evicted*”. Where asked if he has tried to meet this need on his own, the Appellant says he has a life-long learning disability and his mother is not able to provide any additional financial help, and where asked what direct threat

this need has to his overall health and safety, the Appellant says that he has only one day of medication left and that he can't afford the Pharmacare deductible, he "*hasn't had decent food for ... over a month*", and that his rent is 5 months overdue, so he's "*almost homeless*".

Additional Evidence Presented at the Hearing

At the hearing, the Appellant said that he disagreed with the RD as he was initially confused about the order in which he had to proceed with an application for assistance; he wanted to apply for the persons with Disabilities (PWD) designation. He said that he had received IA several years ago but was told by the Ministry that he would have to reapply. He explained that at first he didn't understand that an IA case file in his name would have to be reopened with no benefits in order for him to be able to apply for the PWD designation. He stated he was now clear about the order for proceeding to apply for assistance and that his reason for this appeal hearing was "*to give a bit of background*".

The Appellant also said that he suffers from attention deficit hyperactivity disorder (ADHD), a condition for which he was "*first diagnosed as a kid*". He said that he has never taken medication for ADHD and that he has never been able to hold down a job because of his ADHD. The Appellant also explained that he has four children and an ex-wife and has just experienced a "*bad year*", adding that "*it has taken a lot out of me*".

In response to a question from the Panel, the Appellant said that he had given the Ministry a doctor's note and his "*assessments*", but that he had not yet submitted a PWD application form. The Ministry explained that it often has clients who want to apply for the PWD designation but who don't qualify for IA and that a PWD application form is a 24 page document which includes the applicant's self-report, a medical report, which had to be completed by a doctor, and an assessment report that the applicant's doctor can also complete. The Ministry also said that many disability allowance (DA) recipients don't qualify for IA benefits and that the benefit amounts under DA were different. The Ministry recommended that the Appellant immediately start the application process. The Ministry said that the Appellant could call the Ministry's telephone help line to arrange for the application package to be sent to him. The Ministry also said that the Ministry typically takes 45 to 60 business days to complete its review of a PWD application and decide on an applicant's PWD eligibility.

In response to another question from the Panel, the Appellant said that he was in a full-time studies program at a post secondary institution. Regarding his student loan, the Appellant said that he was not receiving a living allowance as part of his student loan proceeds, and that he is currently in a dispute with the Canada Student Loans program to try to access a living allowance, but they had lied to him and said he was already receiving a living allowance when he wasn't.

At the hearing, the Ministry relied on its RD, emphasizing that information provided by the Ministry at the hearing would be limited to a decision relating to the issue under appeal, i.e., the

Ministry's denial of a crisis supplement. The Ministry emphasized that the Appellant was told that he would have to appeal the Ministry's decision to deny the Appellant an IA and a hardship allowance separately.

In response to a question from the Panel the Ministry recommended that the Appellant also contact the Ministry via its telephone help line to ask about the possibility that he might also qualify for Persons with Persistent Multiple Barriers to Employment (PPMB) benefits and ask the Ministry to mail him the application forms for that benefit.

Additional Information Submitted after Reconsideration

Section 22(4) of the EAA says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under EAA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

In the Notice of Appeal (NOA), the Appellant says that he is disputing the Ministry's RD because he has a diagnosed disability and he is unable to remain employed because of his disability. He also says that he has an urgent need for assistance because he has no income and has been evicted from his home.

The Panel notes that there is new information in the NOA indicating that the Appellant was recently evicted from his home. At the time that the Ministry made its RD, the Appellant had not yet been evicted, but did say in the Crisis Supplement Application and the RFR that he expected to be evicted for non-payment of rent. The Panel admits this new evidence as it might be reasonably required for a full and fair disclosure of all matters relating to the appeal. One of the criteria that must be met for an applicant to be eligible for a crisis supplement is that failure to provide the supplement will result in imminent danger to the physical health of any person in the family unit [EAR Section 59(1)(b)(i)]. However, even though homelessness might reasonably result in imminent danger to the Appellant's physical health, the Ministry had previously determined (in the RD) that this criterion had been met. As this requirement is not at issue in this appeal, the Panel assigns no weight to this new information.

No new verbal evidence was provided by the Appellant at the hearing that might reasonably be required for a full and fair disclosure of all matters relating to the appeal.

Part F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision is reasonably supported by the evidence or is a reasonable application of the applicable legislation given the Appellant's circumstances. In other words, was it reasonable for the Ministry to determine that the Appellant is not eligible for a crisis supplement for food, rent and medication because he is not eligible for IA or hardship assistance? Was it reasonable for the Ministry to determine that it does not have sufficient information to establish whether the Appellant's need for assistance to pay for food, rent and medication is the result of an unexpected circumstance or expense?

Positions of the Parties

The Ministry's position is that the Appellant does not meet two of the required four criteria necessary for eligibility for a crisis supplement. Specifically:

- He was not eligible for income assistance or hardship assistance, and
- The request for the crisis supplement is not to meet an unexpected expense or obtain an unexpectedly needed item.

The Appellant's position is that he needs a crisis supplement because he has not had decent food in over a month, he is running out of the medication necessary to treat his life-long disability, and he has been evicted from his home.

The Panel's Decision

EAA Section 2 says that for an applicant to receive a crisis supplement they must satisfy the initial and continuing conditions of eligibility as established by the legislation, and they cannot have been declared ineligible for IA, hardship assistance or supplement under the legislation. The Ministry has declared the Appellant ineligible for IA and hardship assistance because he is a full-time student. The Panel notes that the Appellant did not ask the Ministry to reconsider the decision that he is ineligible for IA and hardship assistance. In the RD, the Ministry provided the following statement in a note at the end of the decision: "*... this decision speaks only to your request for a crisis supplement to pay for rent, food and medication. This decision does not speak to your eligibility for IA, hardship assistance or DA. The Ministry notes that you were offered the right to reconsideration of the Ministry's decision to deny you IA on June 22, 2022. If you wish to submit a request for reconsideration of this matter, this must be addressed separately by Ministry staff.*" At the hearing, the Appellant confirmed that he had chosen not to appeal the Ministry's decision that he was ineligible for IA and hardship assistance, and that he intended to submit a PWD application.

EAA Section 17 says that a person can ask the Ministry to reconsider a decision that results in a refusal to provide income assistance, hardship assistance or a supplement, and that if that person is dissatisfied with the Ministry's RD, the person can appeal the RD to the Employment and Assistance Appeal Tribunal (the Tribunal). The Ministry's decision to refuse to provide IA or hardship assistance would have been the subject of a different request for reconsideration. As the Appellant has not asked the Ministry to reconsider its decision that he did not qualify for IA

or hardship assistance, there is no reconsideration decision on that Ministry decision for the Tribunal to review, and the subject of this appeal is limited to whether the Ministry's RD that the Appellant was not eligible for a crisis supplement was reasonably supported by the evidence or was based on a reasonable interpretation of the legislation.

To assess the reasonableness of the Ministry's decision, the Panel must consider the requirements for crisis supplement eligibility, which are set out in EAR Section 59, and whether the Ministry reasonably determined that the requirements were not met. EAR Section 59 says that there are four criteria for determining crisis supplement eligibility, all of which must be met. In the Appellant's circumstances, to qualify for a crisis supplement:

- He must be eligible for IA or hardship assistance;
- He must require the crisis supplement to meet an unexpected expense or obtain an unexpectedly needed item;
- He must be unable to meet the expense or obtain the item because there are no resources available to the applicant; and,
- The Ministry must consider that failure to meet the expense or obtain the item will result in imminent danger to the Appellant's physical health.

In the RD, the Ministry said that it is satisfied that two of the criteria had been met: it was satisfied that the Appellant does not have resources available to pay for food, rent and medication, and it was satisfied that the Appellant faces an imminent threat to his physical health if he is evicted from his current residence.

However, the Ministry also determined that the Appellant did not meet either of the other two criteria: he is not eligible for IA or hardship assistance because he is a full time student, and he has not provided sufficient information regarding the circumstances that led to this situation necessary for the Ministry to determine if the circumstances were unexpected. As both of these criteria must be satisfied for crisis supplement eligibility, the Panel must determine whether the Ministry was reasonable in determining that either one of them was not met. Dealing first with the requirement that the crisis supplement was required "*to meet an unexpected expense or obtain an item unexpectedly needed*", no evidence was presented to suggest that any of the expenses were unexpected. In fact, the available evidence suggests that the Appellant was aware that he faced eviction from his home, as his rent had not been paid for five months, and that he did not have the resources to cover the cost of food and medication. All three requirements (money for food, medication and rent) are, in the Appellant's case, both necessary and ongoing requirements, and as such cannot reasonably be considered "*unexpected*". The Panel finds that the Ministry reasonably determined that it did not have sufficient information to conclude that the circumstances were unexpected.

On the issue of IA or hardship assistance ineligibility, the Appellant confirmed he was not in receipt of IA or hardship assistance and, as mentioned above, neither of these earlier decisions by the Ministry was the subject of a request for reconsideration by the Appellant. In any event, only one of the four criteria must not be met in order for an applicant to be ineligible for a crisis

supplement. As information has not been provided to suggest that the Appellant's need for food, medications or money for rent were unexpected, the Panel finds that the Ministry reasonably determined that the Appellant did not qualify for a crisis supplement.

Conclusion

The Panel finds that the Ministry's decision that the Appellant is not eligible for a crisis supplement to cover the cost of food, rent and medications was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the Appellant. Therefore, the Ministry's decision is confirmed. The Appellant is not successful in his appeal.

APPENDIX A - LEGISLATION

EMPLOYMENT AND ASSISTANCE ACT

Eligibility of family unit

2 For the purposes of this Act, a family unit is eligible, in relation to income assistance, hardship assistance or a supplement, if

- (a) each person in the family unit on whose account the income assistance, hardship assistance or supplement is provided satisfies the initial and continuing conditions of eligibility established under this Act, and
- (b) the family unit has not been declared ineligible for the income assistance, hardship assistance or supplement under this Act.

Income assistance and supplements

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.

Reconsideration and appeal rights

17 (1) ... a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide income assistance, hardship assistance or a supplement to or for someone in the person's family unit ...

(3) ... a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1)(a) ... may appeal the decision that is the outcome of the request to the tribunal.

EMPLOYMENT AND ASSISTANCE REGULATION

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 ...

(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 ...

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

APPEAL NUMBER 2022-0149

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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2022/07/29

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2022/07/30

Print Name

Carmen Pickering

Signature of Member

Date (Year/Month/Day)

2022/08/02