

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision (the decision) dated 02 August 2022 where the ministry denied the appellant’s request for a crisis supplement for student loan interest arrears. The ministry found that the appellant failed to meet all the relevant criteria established by legislation, in that the need was not unexpected and that failure to repay the interest would not place the appellant in imminent danger to 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

The evidence before the minister at reconsideration included information that;

- the appellant is in receipt of disability assistance, with a monthly assistance that includes a support allowance of \$983.50 and a shelter allowance of \$375. The appellant is also in receipt of supplements, including a transportation supplement of \$52, and has a monthly rent of \$200.
- on June 29, 2022, the appellant submitted a request for a crisis supplement for student loan interest arrears, reporting:
 - having an outstanding interest debt for a Canada student loan on the amount of \$3427.90, and of
 - receiving the student loan in 1993; with interest that has been accruing over many years.

The panel notes the request for reconsideration was signed and dated by the appellant on 12 June 2022 (sic) and date stamped by the ministry as 12 July 2022. The panel assumes the discrepancy to be a simple administrative error. This request did not include any information submitted by the appellant as reasons in support of the reconsideration.

The panel also notes the reconsideration request stated the original request of June 29, 2022, was for the ministry to pay off the appellant's student loan.

Hearing

The hearing was held as a teleconference.

Appellant

At hearing the appellant stated that Wi-Fi service could be intermittent. If the call ends, the panel should go ahead and complete the hearing.

At the start of the call, all parties could hear each other, and the appellant asked several questions and provided comments during the initial stages of the hearing process. The appellant challenged the statement by the panel that the hearing is confidential, not open to the public and that no recordings can be made during the hearing. The appellant questioned why the hearing was 'secret' and stated that if the appellant gave permission, then anyone should be able to attend, and this was an example of abusive legislation of which the appellant has experienced.

The panel explained why the hearing is confidential and offered to recess to allow the appellant to move to a different location and obtain better Wi-Fi service; and to also provide information on how to provide feedback on the process of the hearing itself to the Tribunal.

The appellant rejected the opportunity to call back and stating that they did not intend to say very much, and several times advised that if the call terminated the panel was to continue with the hearing process.

The appellant then stated they could not hear very much and when asked why stated that his dog had barked, there were noises of other vehicles and other people made it difficult to hear. When asked questions the appellant answered quickly and at times talked over the panel.

The appellant stated they had a loan that should never have been given and that the federal government has had a foot on the appellant's throat for some time. The appellant's call was disconnected without the opportunity for the panel to confirm if the appellant had any more testimony to provide, and before the panel had an opportunity to question the appellant. The hearing recessed for a period to allow the appellant to rejoin the hearing.

Section 86(b) of the Employment and Assistance Regulation permits a panel to hear an appeal in the absence of a party if the party was notified of the hearing. The appellant had joined the hearing at the appointed time and indicated an intention to not say very much, followed by a statement and several comments that if the call was disconnected for the hearing to continue.

Therefore, being satisfied that the appellant was afforded an opportunity to be heard, the hearing proceeded without the appellant. The appellant had not rejoined the hearing by the time the panel had heard from the ministry and subsequently completed deliberations.

Ministry

The ministry relied upon the reconsideration decision.

In response to a panel question the ministry stated it did not know when the appellant first became aware of the requirement to repay the debt. The ministry had not received any written information from the appellant at the initial application or reconsideration in relation to the debt, only that a note to file indicates it was for an interest payment.

Admissibility of new information

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 this case the appellant provided oral testimony to having a loan that should never have been given. The panel finds that this information is relevant because it relates directly to the original request for a crisis supplement.

The panel admits the new information under section 22(4) of the Employment and Assistance Act ("EAA") as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Findings of Fact

The panel finds the appellant to have an outstanding student loan with accrued interest of \$3427.90 for an unknown total amount.

Part F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's decision that the appellant is not eligible for a crisis supplement for student loan interest arrears. In particular, was the ministry's decision, that the need to pay the student loan interest was not unforeseen or that failure to repay the loan and/or the accrued interest would not place the appellant in imminent danger, supported by the evidence or a reasonable interpretation of the legislation in the circumstances of the appellant?

The relevant legislation is provided in Appendix A.

Appellant Position

The appellant argues that the federal government has demanded payment of either or both repayment of a student loan from 1993 and accrued interest on the loan, and that without funds a crisis supplement is needed to pay the debt.

Ministry Position

The ministry accepts that the appellant has an outstanding interest amount of \$3427.90 for a student loan obtained in 1993 and acknowledges that the appellant would be required to pay interest on this loan, however argues that the appellant has not provided any evidence that shows how the student loan and the accrued interest is unexpected to the appellant; and no evidence to suggest that failure to obtain a crisis supplement will result in imminent danger to the appellant's physical health at this time. Therefore, the ministry is not satisfied the appellant fulfills the requirements of the legislation.

Panel Decision

The ministry has considered the appellant's claim for a crisis supplement for interest on the student loan only in the reconsideration decision and that the request for reconsideration outlined an original denial for payment of the student loan itself. The panel will consider both the loan and the accrued interest in its decision.

The legislation within section 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWD Act) states that subject to the regulations the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

The regulations are contained within the Employment and Assistance for Persons with Disabilities Regulations (EAPWD Regulations) and part 5 details the available supplements to persons eligible for disability assistance. These supplements include items such as;

- purchase of coop housing shares,
- training initiatives,
- employment plan and job supplements,
- moving, transportation and living,
- security and utility security deposits,

and others. No section within the regulations provides a supplement for repayment of student loans or interest accrued on a student loan.

Section 57 of the EAPWD Regulation provides that the minister may provide a crisis supplement to or for a person that is eligible for disability assistance, and section 57(1) states that the ministry may provide a crisis supplement if:

1. the appellant requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
2. there are no resources available to the appellant; and
3. failure to obtain the crisis supplement will result in imminent danger to the physical health of the appellant.

The Webster dictionary defines crisis as a difficult or dangerous situation that needs serious attention. The legislation discussed above provides a means to test this situation and sets three requirements that must all be met for the provision of a supplement.

There was no information at hearing to refute the fact that the appellant received a student loan in 1993, has an outstanding interest accrual over many years, with a current outstanding amount of \$3427.90. Nor was there any evidence to show how the loan, and the accruing interest is unexpected to the appellant. The appellant implied that the federal government had been in contact about the debt over a number of years. Therefore, the panel finds that any requirement to repay the loan and/or the interest is not an unexpected expense as required by section 57 (1)(a) of the legislation. In the circumstances of the appellant the ministry was reasonable in its finding.

The ministry has found that the appellant had no resources available to pay for the student loan or interest payments. This requirement will not be further considered by the panel.

There is no information to suggest that failure to pay the loan and/or interest charges will result in imminent danger to the appellant and therefore finds that the legislative requirement provided in section 57(1)(b)(i) of the EAPWD Regulation has not been met. The panel finds the ministry reasonably concluded that the appellant had not fulfilled the legislative requirements of imminent danger.

Summary

The panel finds the student interest is not an unexpected expense within the meaning of section 57(1)(a) of the EAPWD Regulation. The panel also finds that failure to pay the loan and/or interest charges will not result in imminent danger to the appellant as required in section 57(1)(b)(i) of the EAPWD Regulation.

Conclusion

Based on all available evidence the panel finds that the ministry's reconsideration decision to be supported by the evidence, and a reasonable interpretation of the legislation in the circumstances of the appellant.

The ministry's reconsideration decision is confirmed. The appellant is not successful on appeal.

Appendix A

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,

(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:

(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;

(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 2022-0171

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

Donald Stedeford

Signature of Chair

Date (Year/Month/Day)

2022/08/23

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2022/08/22

Print Name

Robert Fenske

Signature of Member

Date (Year/Month/Day)

2022/08/21