

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 18, 2022 which held that the appellant was not eligible for a crisis supplement to purchase a mattress.

The ministry determined that a replacement mattress was not an unexpected expense because it required replacement do to “regular wear and tear on a 25-year-old bed.”

The ministry did determine that the appellant was eligible for disability assistance, that there were no resources available to the appellant to obtain a mattress, and that the failure to obtain a mattress would result in imminent danger to the appellant’s physical health.

Part D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation, section 57(1).

Part E – Summary of Facts

The information before the ministry at reconsideration included that:

1. The appellant was eligible for, and in receipt of, disability assistance;
2. The appellant suffered from physical illness including severe osteoarthritis and degenerative disc disease;
3. The appellant was in chronic significant pain;
4. The appellant did “not sleep well” on their mattress and that adversely affected their health;
5. The appellant was unable to get out of bed and as a consequence they urinated on the mattress;
6. The appellant was gifted a “mattress topper” but that it was unusable;
7. A support person had attended the appellant’s residence and the mattress was “badly urinated on” and had an “intense/toxic smell of urine”; and
8. The support person’s opinion was that the bed was “not fit for human use”.

Prior to the hearing, the appellant submitted to the tribunal a doctor's letter indicating that she had fibromyalgia and that a new bed would provide pain relief. The panel determined it was appropriate to admit this letter under section 22(4) of the *Employment and Assistance Act* because the panel considers it reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The panel notes that the letter is relevant to the appellant’s physical illness and chronic pain but was not relevant to whether a replacement mattress was an unexpected expense.

At the hearing, the appellant provided additional information which the panel determined was appropriate to admit under section 22(4) of the *Employment and Assistance Act* because the panel considers it reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

That information included:

1. The appellant was extremely embarrassed about the circumstances under which the mattress became soiled and did not fully disclose that information to the ministry;
2. The appellant required the assistance of emergency medical personnel (by calling 911) on the date that they were unable to get out of bed;
3. The appellant suffered from incontinence and loss of mobility as a consequence of their physical illness and grief;
4. The damage to the mattress was unexpected; and
5. The ministry’s information that the appellant’s spouse had “passed away in the bed and urinated in it” was not accurate.

The appellant stated that although the mattress was old and worn it was unexpected that it would not be fit for human use because that was the consequence of it being soiled unexpectedly. The appellant stated that even if the mattress was only one year old as a consequence of the soiling it would be not fit for human use.

At the hearing, the ministry confirmed that respect for human dignity was important to the ministry.

The ministry also confirmed that the original decision found the appellant was not entitled to a crisis supplement because the mattress had deteriorated due to wear and tear which was not unexpected. The ministry stated that on reconsideration the ministry determined the appellant was not entitled to a crisis supplement because “without additional information, it is difficult to determine when and, over what period the soiling occurred. Therefore, the ministry is not satisfied your need for a bed is unexpected to you at this time.”

The ministry confirmed that soiling of a mattress over a period of time is considered equivalent to wear and tear.

Part F – Reasons for Panel Decision

Introduction

The issue at appeal is whether the reconsideration decision dated August 18, 2022 which held that the appellant was not eligible for a crisis supplement was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstance.

Summary of The Relevant Legislation

Section 57 of the Employment and Assistance for Persons With Disabilities Regulation ("EAPWDR") permits the minister to provide a crisis supplement if specific criteria are met.

Those criteria are:

1. The applicant's family unit is eligible for disability assistance or hardship assistance;
2. The crisis supplement is required to meet an unexpected expense or obtain an item unexpectedly needed;
3. There are no resources available to the family unit to meet the unexpected expense or obtain the item; and
4. The 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 Determined Three of the Four Criteria Were Satisfied

As stated earlier, the ministry determined that the appellant met the criteria numbered 1, 3, and 4 above.

Was The Requirement to Obtain A Mattress Unexpected?

The issue before the panel was whether the requirement to obtain a mattress was unexpected.

The Appellant's Position

At the hearing the appellant stated that the requirement to obtain a mattress was unexpected because it arose because their existing mattress became soiled unexpectedly.

Implied by the appellant was that the mattress was old and worn but that they had used it for many years and were not intending to replace it before it became soiled unexpectedly.

The Ministry's Position

The ministry's position was that the appellant was not able to provide sufficient information about "when, and over what period the soiling occurred" and therefore it was "not satisfied [the appellant's] need for a bed is unexpected."

The Panel's Decision

The panel noted that the legislative intent of a crisis supplement is to provide assistance to people that have an unexpected expense or require an item unexpectedly. The panel recognizes that it is not intended to provide a supplement to a family unit who must obtain an item that has predictably worn out.

In this hearing, the panel considers that the key question is: if the appellant hadn't unexpectedly been unable to get out of bed and hadn't soiled the mattress would they need a new mattress?

The panel finds that based on the new evidence provided by the appellant that the need for a new mattress was a direct consequence of the unexpected soiling of the mattress and was not the result of wear and tear and soiling over a lengthy period of time.

Therefore, the panel finds that the ministry's decision that the need for a new mattress was not unexpected was not reasonably supported by evidence.

Conclusion

The panel rescinds the ministry decision and refers it back to the Minister for a decision as to amount.

Extracts of the Relevant Legislation

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, or
 - (ii)removal of a child under the *Child, Family and Community Service Act*.

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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

Trevor Morley

Signature of Chair

Date (Year/Month/Day)

2022/Sep/13

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2022/09/13

Print Name

Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)

2022/09/14