

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated September 27, 2022, that denied the appellant’s request for a crisis supplement to purchase a fan.

Specifically, the ministry was not satisfied the eligibility requirements set out in the EAPWD Regulation, subsection 57(1)(b)(i) had been met. The minister considered that failure to obtain the item (fan), would not result in imminent danger to the physical health of the appellant and therefore the appellant’s request for a crisis supplement was denied.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWD) Act Section 5

Employment and Assistance for Persons with Disabilities (EAPWD) Regulation Section 57

Part E – Summary of Facts

The appellant is a Person with Disabilities in receipt of disability assistance.

Key Dates

- August 30, 2022- The appellant requested a crisis supplement for a fan.
- September 2, 2022- The ministry denied the appellant's request for a crisis supplement for a fan.
- September 12, 2022- The appellant submitted a Request for Reconsideration to the ministry.
- September 27, 2022- The ministry completed its review of the appellant's request.

Additional Information

- Request for Reconsideration dated October 6, 2022, the appellant stated:
 - They are in need as they had experienced unexpected theft of phones, clothes, money and a sleeping bag.
 - They have asked for a fan and heater as they were having trouble sleeping due to the heat and anticipated the need for heat for the cold this coming winter.
 - They have not been feeling well and may be catching a cold.
- The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing as per Section 86 (b) of the Employment and Assistance Regulation which states: the panel may hear an appeal in the absence of a party if the party was notified of the hearing;
- At the hearing the ministry representative stated:
 - The appellant had met three of the four criteria required to receive the crisis supplement.
 1. The appellant was eligible for disability assistance,
 2. The requested item was an unexpected expense
 3. The appellant did not have resources available to obtain the item on their own.
 - The appellant did not meet criterion 4, Failure to provide the item will result in imminent danger to the appellant's physical health, as not enough information was given by the appellant.
 - If the appellant requires assistance for heat concerns this winter, they would be encouraged to discuss their situation with the ministry.

Part F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant did not meet all the criteria of Section 57 of the EAPWD Regulation was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant. The ministry determined that the appellant did not qualify for a crisis supplement for a fan as the appellant had not established there was an imminent danger to their physical health if a fan was not obtained.

Appellant's Position

The appellant has requested a fan/heater as they are uncomfortable sleeping in the heat of the night and feel the fan will also assist in supplying heat during the winter. The appellant also submitted that further consideration be given the request as they have rarely asked for help and have not asked for much except when it was really needed.

Ministry Position

As the request made by the appellant was at the end of August, the ministry decision was based on the fan only and has recommended the appellant contact the ministry if winter cold becomes an issue.

The ministry was not satisfied that failure to obtain a fan will result in imminent danger to the appellant's physical health. The ministry acknowledges that living in a tent can present unique challenges but states not enough information was given by the appellant to allow them to conclude the appellant's health was at risk if a fan was not provided.

Panel Decision

Under Section 57(1) of the EAPD Regulation the appellant must meet all four criteria. The ministry determined the appellant met the first three criteria. The only criterion at issue in this appeal is the fourth criterion which requires the appellant to demonstrate that failure to obtain the fan will result in imminent danger to the physical health of the appellant.

When explaining to the ministry why a fan was required, the appellant states it will assist in their sleeping comfort but does not offer any other evidence in terms of an imminent threat to their health. The appellant does mention possible concerns of cold in the future but not as an imminent (immediate) concern.

The panel finds that there is an absence of evidence to demonstrate an imminent danger to the health of the appellant. The ministry's determination that this criterion was not met is reasonably supported by the evidence and a reasonable application of the legislation in the appellant's circumstances.

Conclusion

The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's reconsideration decision. The appellant is not successful in their appeal.

Relevant Legislation

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, or

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

APPEAL NUMBER 2022-0275

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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2022/12/04

Print Name

Carmen Pickering

Signature of Member

Date (Year/Month/Day)

2022/12/05

Print Name

Patrick Cooper

Signature of Member

Date (Year/Month/Day)

2022/12/04