

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the Ministry) reconsideration decision of October 31, 2022, in which the Ministry determined that the appellant was ineligible for a crisis supplement to purchase firewood because she did not meet the legislative criteria set out in Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, the Ministry was not satisfied that the need for firewood was unexpected and that the appellant had no resources available to meet the need.

**Part D – Relevant Legislation**

EAPWDR Section 57

The full text of the legislation is provided in Appendix A at the end of the Decision.

**Part E – Summary of Facts**

The appellant is a sole recipient of disability assistance.

She receives \$1329.54 per month for disability assistance. This amount includes \$983.50 for a support allowance, \$294.04 for a shelter allowance and \$52 for a transportation supplement. \$131.25 of the shelter allowance is for firewood costs which the appellant has been receiving since September 2020.

**Evidence Before the Ministry at Reconsideration**

- A request for reconsideration dated October 31, 2022. The appellant wrote as her reason for requesting a reconsideration (in summary):
  - When she called the Ministry to request a crisis supplement for firewood the Ministry case worker asked why the firewood was unexpected and the appellant did not understand why this question would be asked because it was not asked on the Ministry form, she had filled out.
  - By denying funding the Ministry is in violation of the Criminal Code of Canada.
  - The Ministry's shelter legislation indicates that only "expected" costs can be considered and "unexpected" costs are seasonal, unusual, or intermittent costs.
  - The Ministry does pay lump sums for firewood as they did it for her in the past.
  - She has met all the criteria: unexpected expense, unable to meet the need, no resources available and possibility of freezing.
  - The argument that she has been receiving funds for firewood has no merit when she does not use firewood in the summer.
- A copy of the online form the appellant submitted to the Ministry requesting a crisis supplement for firewood. As her reason for requesting the crisis supplement, she wrote that she required the full amount for firewood because it had been discontinued on her shelter portion.
- Two advertisements from firewood suppliers which indicate the cost of a cord of wood ranges from \$300 to \$500 per cord.

**Information Provided After Reconsideration**

On the Notice of Appeal (NOA) form dated November 8, 2022, the appellant wrote (in summary):

- She experiences anxiety when dealing with the Ministry.
- The money she received for firewood over the past year went towards last year's wood supply.
- The money she started receiving in September 2022 is insufficient to pay for the full amount of wood she requires for the upcoming year. It will only cover one cord of wood.
- The amount she currently receives from the Ministry does not cover all her shelter expenses. Her hydro is, on average, \$160 per month and she expects the costs to rise this winter as she will have space heating. She receives \$112.04 from the Ministry for hydro. She pays \$22 for garbage and receives \$20 from the ministry. She pays \$42 for phone and receives the maximum amount of \$30 from the Ministry. She pays \$300 for firewood (during winter months) and she receives \$131.25 from the Ministry.
- She received two cheques for firewood from the Ministry in both 2018 and 2019 and doesn't understand why the payments are set monthly as it is cruel and corrupt practise.
- She cannot make partial payments for firewood because when burned it cannot be returned to the seller on default of payment.

On November 25, 2022, the appellant made a submission. In summary:

- The appellant equates that the online appeal form she completed requesting funds for firewood is a contract with the Ministry. All parties to the contract must know all the terms and the Ministry cannot move the goal posts without penalty.
- The online form did not ask the question, "why is this need unexpected?" therefore the terms of the contract were not clearly outlined to her. She requests that the online form be addressed because it contains items and values not knowable to any one party to the contract, except the Ministry.

On November 25, 2022, the appellant also submitted a blank online form that shows the questions the Ministry asks when requesting a crisis supplement.

At the hearing, the appellant stated that she requires five cords of firewood for the year at the cost of \$300 a cord for a total of \$1500. She states that payment is required in full upon delivery and the monthly payments of \$131.25 are not enough to cover the cost. She has been using the monthly payments received to pay for last year's firewood and does

not have enough funds to cover the total cost for this year's firewood. She stated that she has received lump sum payments for firewood in the past.

The appellant states she has extreme anxiety dealing with the Ministry's call center and tends not to deal with them. She did not feel she should be expected to use the approximately \$700 she had in her bank account at the time of reconsideration as those funds were going to be used for food and other expenses. She stated that she did not receive enough funds to cover the full cost of her hydro and it had last been updated by the Ministry in 2017, so she had to use some of the payments to cover her hydro and other household costs.

The appellant did not understand why she was not receiving a lump sum payment rather than a monthly payment for firewood. She stated that this practice was cruel and corrupt. She stated that denying her this funding was a violation of the Criminal Code.

She was concerned the online form used did not allow her to adequately explain her circumstances and was concerned that it was a binding contract. The appellant argued that she fulfilled her part of the contract with the Ministry when completing the online form, which did not ask for information about why the need for firewood was unexpected, and that the Ministry was unreasonable to deny funding based on a malicious, hidden contract term.

At the hearing, the Ministry reviewed the reconsideration decision and argued that the cost was not unexpected because it is the same amount and cost for firewood that has been in effect for several years which is \$300 per cord or \$1500 for five cords of wood. The appellant was aware that there would be a charge for firewood each year and that the firewood company expects to be paid in full for the entire order that is delivered.

The Ministry argued that resources were available to purchase the firewood because the appellant received \$131.25 per month for firewood and GST which is paid in advance. If this amount was put aside since October 2021, there would be funds available to pay the cost of firewood when it was required in 2022. The payment is provided monthly as it is more advantageous for the appellant as it does not exceed the total monthly shelter allowance that a larger intermittent payment would.

The Ministry encouraged the appellant to provide updated verification of her utilities costs to the Ministry to ensure she was receiving the correct shelter amount. The appellant had received a lump sum crisis supplement in both 2018 and 2019 to cover firewood costs. In 2020, the appellant began receiving \$131.25 per month to be able to save funds for the firewood cost for the following year (2021 and 2022). In addition, the appellant had

approximately \$700. In her bank account at the time of reconsideration that could have been used to pay for the firewood.

### **Admissibility of Additional Information**

The panel admits the appellant's NOA, written submissions and the oral evidence given at the hearing under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**Part F – Reasons for Panel Decision**

The issue under appeal is the reasonableness of the Ministry's reconsideration decision dated October 31, 2022, wherein the Ministry denied the appellant a crisis supplement to purchase firewood.

The panel must determine whether the Ministry's decision that the appellant did not satisfy the statutory criteria as set out in section 57 (1) of the EAPWDR was either reasonably supported by the evidence or was a reasonable interpretation of the legislation in the circumstances of the appellant.

**The Appellant's Position**

The appellant's position is that she requires a lump sum payment for the purchase of firewood for the 2022-23 season. The appellant argues that she fulfilled her part of the contract with the Ministry when completing the online form, which did not ask for information about why the need for firewood was unexpected, and the Ministry was unreasonable to deny funding based on a malicious, hidden contract term.

**The Ministry's Position**

The Ministry's position is that the appellant met only two of the four criteria required under section 57(1) of the EAPWDR. The appellant has not met the requirement that the firewood is unexpected or was an unexpected expense. The Ministry is not satisfied the appellant does not have resources to purchase the firewood.

**Panel's Reasons**

Section 57(1) of the EAPWDR states that there are specific conditions that must be met to qualify for a crisis supplement. The panel must consider the facts of this case as it applies to the legislation.

The Ministry has determined the appellant meets the requirements of being a recipient of income assistance and that there is danger to the appellant's imminent health if firewood were not provided. However, two requirements have not been met.

**The requirement that the item must be for an unexpected expense, or an item unexpectedly needed.**

The appellant argues that the online crisis request form is a contract which did not include the question about why the item requested is unexpected, therefore, she should receive

the crisis supplement. The panel found no evidence to suggest that the Ministry's online form is a binding contract, rather that it is a way to gather information for the Ministry to make an eligibility decision. The panel considers it reasonable for the Ministry to follow up an online request with a phone call to review what unexpected circumstances the appellant may have had before making their determination. The appellant focused on the fact that the "unexpected" question was not on the form rather than providing an explanation as to why she was not able to save the monthly firewood allowances that she received for the past year.

The panel finds that the verified cost of firewood was not an unexpected expense because the cost of five cords of firewood has remained the same for several years. The appellant knew that she would be requiring five cords of firewood again for another year. Therefore, the panel finds the Ministry was reasonable to determine that the appellant does not meet this requirement.

**The requirement that the appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit.**

The panel finds that it was unreasonable to expect the appellant to use the \$700 she had in her bank account at the time of reconsideration to pay for firewood because, as the appellant explained at the hearing, these funds were for food and other expenses.

The panel finds that the Ministry has provided funds for the purchase of firewood monthly to the appellant in the amount of \$131.25 since October 2020, which, when multiplied by 12, is equal to the annual firewood cost plus GST. The panel acknowledges that by providing a monthly amount, the appellant benefits, because a lump sum payment would be more than the shelter maximum.

The Ministry also provided a lump sum payment for firewood in 2018 and 2019 as a crisis supplement to cover firewood costs in arrears and enable the appellant to save the monthly payment of \$131.25 to pay for the following year's firewood in advance.

Because the appellant received monthly funds for firewood, the panel considers this to be a resource available to her, therefore, the Ministry was reasonable to determine that the appellant does not meet this requirement.

**Conclusion**

Considering all the evidence, the panel finds that the Ministry's decision that the appellant was not eligible for a crisis supplement to purchase firewood pursuant to section 57(1)

EAPWDR was a reasonable application of the legislation in the circumstances of the appellant.

The panel confirms the Ministry's decision in accordance with section 24(1)(b) and 24(2)(b) of the Employment and Assistance Act.

The appellant is not successful on appeal.

## **Appendix A**

### **Schedule of Legislation**

#### **EAPWDR**

#### **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.

(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 \$20 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 maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;

(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.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, 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

2022-0274

**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

Julie Iuvancigh

Signature of Chair

Date (Year/Month/Day)

2022/11/29

Print Name

Janet Ward

Signature of Member

Date (Year/Month/Day)

2022/12/01

Print Name

Jane Nielsen

Signature of Member

Date (Year/Month/Day)

2022/12/01