

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (Ministry) reconsideration decision dated December 21, 2022, which held that the appellant was not eligible for a crisis supplement to fund the purchase of a set of winter tires (the tires) pursuant to Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The ministry found that the appellant does not have the resources to pay for the costs of the tires which are \$754.51. However, the ministry also found that the request for crisis supplement funds was not for unexpected expenses as the need for tires is ongoing (and a part of regular wear and tear when using a vehicle) and that there is no imminent danger to the appellant if the tires are not purchased immediately.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

Part E – Summary of Facts***Evidence at the Reconsideration***

- Quote for a set of 2 tires for \$344.15 dated October 24, 2022.
- Request for Reconsideration, signed and dated December 5, 2022, which included the following:
 1. A 4-page letter from a local advocacy group (the advocate) which stated, in part, the following:
 - The law requires that in the region where the appellant resides, winter tires are required from October 1 to April 30 each year and failure to use them can result in a monetary fine or one can be prevented from travel;
 - The appellant is at risk of serious accidents;
 - The price of tires has increased substantially from 2021 to 2022 and the increase was unexpected.
 - The appellant only has one set of tires and therefore did not have them changed last spring to summer tires. The ministry's suggestion and decision based on this misinformation is erroneous.
 - 4 winter tires are required for the safe operation of the vehicle, not 2 as initially requested.
 - The government's literature regarding winter tires indicates that without winter tires, serious motor vehicle incidents can occur. Therefore, the appellant is in imminent danger if she does not obtain a set of winter tires.
 - The purchase of a set of tires is beyond the appellant's financial means.
 2. A quote for a set of 4 tires from a local store for \$568.00
 3. A quote for a set of 4 tires (different brand from above) from a local store for \$720.00.
 4. 4-pages of tire prices which vary by brand, quality and price. The appellant argued that the pricing demonstrates that the price of tires substantially increased from 2021 to 2022.
 5. 1- page BC Highways Winter Tires/Carry Chains information sheet which indicates that the highway the appellant frequently uses requires winter tires from October 1 to April 30.

Evidence on Appeal

Notice of Appeal (NOA) was signed and dated January 9, 2023, which included a 2-page letter from the advocate. The letter stated, in part, the following:

- The appellant did not know her existing tires were bald so the need for new ones was unexpected.
- The cost increase for new tires was unexpected.
- She does not have family or friends to drive her around nor should the ministry expect others to bear the responsibility of driving her around.
- The appellant cannot afford taxis and the transit system in her community is sporadic and does not operate on Saturdays. This limits her ability to attend appointments.
- The failure to obtain new winter tires will result in imminent danger as the appellant cannot safely travel on the roads in the winter.
- The appellant has ongoing anxiety, depression, suicidal thoughts, and Borderline Personality Disorder (BPD). The appellant struggles with day-to-day decisions and activities as she is just surviving. The need for tires was not on her radar. This need was unexpected to her.

The panel considers the information in the January 9, 2023 letter to be the appellant's argument.

Evidence Prior to the Hearing

Prior to the hearing the appellant submitted a 2-page letter from the advocate dated January 20, 2023, which, in part, stated the following:

- The appellant must travel on a major highway to access any of her basic needs as the highway runs right through town.
- The appellant does not have expert knowledge of tires and did not know her current tires were bald. The news that she needs new tires was unexpected and so was the cost.
- The appellant was aware that winter tires are required in the region where she resides, but she was not aware that she needed them this winter.

The panel considers the information in the January 20, 2023 letter to be the appellant's argument.

Admissibility of Additional Information

A panel may consider evidence that is not part of the record and the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The panel found that the January 9, 2023 and January 20, 2023 letters from the advocate provided additional detail or disclosed information that provides a full and fair disclosure of all matters related to the decision under appeal. The panel has admitted this new information as being in accordance with s. 22(4) of the *Employment and Assistance Act*. An analysis of each is provided in the panel's decision.

Part F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision which determined that the appellant failed to establish that the need for a crisis supplement for new winter tires was an unexpected expense or was unexpectedly needed, and failure to obtain new tires would result in imminent danger to the safety of the appellant, as required by Section 57 (1) (a) of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation can be found in Appendix A

Appellant's Position

The appellant argued that she was not aware that she needed new winter tires this winter and the cost of those tires have substantially increased in the past year. Furthermore, it is dangerous and against the law to drive without functional winter tires. If there is a failure to obtain them, the appellant's physical safety is at imminent risk. The transit system in her area is sporadic, and she cannot afford to use taxis on a regular basis. It is unreasonable for her, and the ministry, to expect others to bear the burden of driving the appellant to meet her needs.

Ministry's Position

The ministry's position is that the appellant's need for a crisis supplement to fund the purchase of new tires is not unexpected or not unexpectedly needed as the need for tires is an ongoing need due to wear and tear. Furthermore, the failure to obtain tires immediately does not result in imminent danger to the appellant because, to get around, she has the options of using the transit system, taxis or friends/family.

Panel's Decision.

The panel's role is to determine the reasonableness of the ministry's decision based on the legislation and evidence.

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or 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 ministry considers the failure to meet the expense or obtain the item will result in imminent danger to the physical health of a member of the family unit.

Unexpected Need or Expense

In its reconsideration decision, the ministry noted that wear and tear of tires is not unexpected and the need to travel in the region with winter tires is not unexpected. The ministry is not satisfied that the appellant was unaware of this need.

The appellant argued that the need for tires was unexpected to her. The legislation states that the need for the crisis supplement must be unexpected. The panel finds the ministry reasonable in its interpretation of unexpected need. In the panel's view it's not whether it's an unexpected expense to the appellant but whether the expense is unexpected. For example, if the appellant's tires were suddenly damaged, the need for new tires could be unexpected. However, tires become bald with use or wear and tear. The need to replace them is then a part of regular upkeep that comes with owning a vehicle and is an expected expense.

The appellant argued that winter tires are a necessity in the region she lives. The panel finds that this supports the view that the need to have winter tires is not unexpected as to replace them is ongoing. The evidence available at the hearing supports the ministry's decision that the appellant need for new

tires is not unexpected. The panel finds that the ministry acted reasonably in finding there was no unexpected need for tires.

Imminent Danger

In its reconsideration decision the ministry noted that the failure to obtain tires immediately does not result in imminent danger to the appellant because, to get around, she has the options of using the transit system, taxis or friends/family.

The panel finds that there is no evidence that the appellant's safety is at imminent risks if she does not obtain the tires. The very nature of the word 'imminent' implies an urgency and the evidence presented by the appellant does not demonstrate such urgency. That is, the appellant has argued that it is dangerous to drive in the region without winter tires. However, she has not established why she is not able to access transit services even if they are sporadic. The transit service may not be convenient, but it exists as an option. The appellant also failed to establish that walking to appointments or for small grocery trips is not possible. Furthermore, the appellant has argued that she suffers from mental illness and struggles in her day-to-day life. However, she failed to establish how her mental illness impacts her ability to use transit or secure rides from others occasionally. The evidence available at the hearing supports the ministry's decision that the appellant does not face imminent danger to her physical health. The panel finds that the ministry acted reasonably in finding there was no danger to the appellant's physical health.

Conclusion

The panel finds that the evidence establishes that the ministry was reasonable in its determination that all the criteria set out in Section 57 (1) of the EAPWDR have not been met by the appellant. As a result, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful at appeal.

Appendix A

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.

Section 57(1) of EAPWDR provides as follows:

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***.

2023-0008

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
Neena Keram

Signature of Chair

Date: 2023/02/01

Print Name
Corrie Campbell

Date: 2023/02/01

Print Name
Susanne Dahlin

Signature of Member

Date: 2023/02/01