

**Part C - Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision (the Decision) dated August 9, 2023, which determined that the appellant was not eligible for a crisis supplement for the purchase of a replacement fan for her microwave oven, as her request did not meet the criteria set out in section 59(1) of the Employment and Assistance Regulation (the Regulation).

**Part D - Relevant Legislation**

Employment and Assistance Act (the Act) Section 4

Employment and Assistance Regulation (the Regulation) Section 59

A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below.

**Part E – Summary of Facts****Relevant Evidence Before the Minister at Reconsideration:**

- The appellant has a family unit of eight in receipt of income assistance.
- On July 23, 2023, the appellant requested a crisis supplement for a home repair, stating that she needs to replace the overhead microwave fan on top of her stove, as it is not working anymore.
- It is an essential cooking item but is also required for safe air ventilation while cooking with the stove.
- The appellant needs \$500.00 to replace the fan.
- The appellant did not know her overhead microwave was going to stop working unexpectedly.
- The appellant can barely make ends meet on her own.
- The stove and microwave are essential cooking items, and the fan is required in all homes for safe cooking and operation of a stove.
- On July 24, 2023, the ministry denied the appellant's request for a crisis supplement for Home Repair as the ministry determined it does not meet all the criteria for a crisis supplement.
- On July 25, 2023, the appellant submitted her request for reconsideration stating that:
  - The appellant read that it is important for proper ventilation.
  - The appellant is exposing her family to potentially dangerous fumes and toxic particles when she cooks at least 3 times a day, as well as snack time.
  - Not having an exhaust fan could be poisoning her family unknowingly.
  - Oven fans are mandatory in homes.
  - The appellant provided a screenshot from an unknown website stating that cooking without a range hood could cause toxins to sit inside her home.

**Information Provided After the Decision**

In the Notice of Appeal, the appellant said:

- She asked for the crisis supplement "as soon as the unexpected failure occurred".
- The \$500 cost for a new fan includes an installation charge of between \$175 and \$350 depending on how long it takes to install the fan.

The appellant did not make a submission after providing the Notice of Appeal, so there is no other new information.

### **Admissibility of New Evidence**

Section 22(4) of the Act says a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must decide if the new information is relevant to the decision. If a panel determines new evidence can be admitted, it must decide if the decision was reasonable considering the new evidence.

The panel determined the new information included in the Notice of Appeal is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the Act.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's Decision that determined the appellant was not eligible for a crisis supplement for the cost to replace the fan in her microwave was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

**The Appellant's Position**

The appellant's position is that:

- she is receiving income assistance,
- the expense to replace the fan is unexpected,
- she lacks the resources to pay for a replacement fan, and
- failure to meet the expense or obtain the fan will result in imminent danger to the physical health of people in the family.

Her position, therefore, is that she has satisfied all the eligibility criteria under the legislation.

**The Ministry's Position**

The ministry's position is that the appellant did not satisfy all the criteria under Section 59 of the Regulation to be eligible for a crisis supplement, specifically:

- Based on the information provided, the ministry is unable to establish that this is an unexpected expense, and
- While the ministry acknowledges that the appellant lacks resources to obtain a fan for \$500, the ministry is not satisfied that the appellant lacks resources to purchase a more economical fan.

**Analysis**

Section 4 of the Act states, "the minister may provide income assistance or a supplement to or for a family unit that is eligible for it."

Section 59 of the Regulation states that, “The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance...if...a person in the family unit requires the supplement to meet an unexpected expense...and is unable to meet the expense...because there are no resources available to the family unit, and ...the minister considers that failure to meet the expense...will result in imminent danger to the physical health of any person in the family unit...”

In the Decision, the ministry found that two of the four criteria were met: the family unit is eligible for income assistance and failure to meet the expense will result in imminent danger to the physical health of the family unit. Therefore, these criteria are not at issue in this appeal.

#### **Section 59(1)(a) - unexpected expense or obtain an item unexpectedly needed**

In the Decision, the ministry says that while the appellant stated that her fan stopped working unexpectedly, she did not state when it happened. Therefore, the ministry says it is unable to establish if this is an unexpected expense, based on the information available when it made the Decision.

The panel notes that section 59(2) of the Regulation states: “A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made”. In other words, the appellant must promptly request a crisis supplement, indeed in the same month as the problem arises. Due to the evidence of health and safety concerns arising from operating a microwave oven without a fan, which was accepted by the ministry, the appellant promptly requested a crisis supplement on the very same day the fan failed. She did in fact state when it happened, and this evidence was found in the Notice of Appeal. Consequently, the panel finds that the ministry’s determination that the expense of replacing the microwave fan is an unexpected expense was not reasonable based on all the admissible evidence.

#### **Section 57(1)(a) - unable to meet expense, no resources**

The ministry concedes that the appellant would not have enough resources to cover a fan costing \$500, as was requested. However, the ministry required the appellant to investigate other lower cost resources available in her area such as Facebook Marketplace, classified ads, thrift stores and other low-cost options that will be suitable for her immediate need. The ministry argued that there are many options available below \$500 to explore online or locally. Based on these factors, the ministry is not satisfied that the appellant does not have the resources to purchase a more economical fan.

The panel notes that the appellant provided evidence that the costs to install the fan are estimated by a plumbing company to be \$175 to \$325. The panel also notes that the appellant has reasonably indicated that the replacement fan must fit the existing opening for the fan system. Otherwise, it is reasonable to expect that additional installation costs might be incurred in modifying the size or shape of the fan housing. As a result, the panel finds that it is unlikely that a suitable used replacement fan could be obtained from a thrift shop, etc. without significant additional installation costs. The panel accepts the appellant's position and finds that it was not reasonable for the ministry to conclude that a significantly lower cost option might be available to the appellant, and that therefore the appellant has the resources to purchase a more economical fan.

### **Conclusion**

The panel finds the ministry's Decision which determined the appellant did not meet all the criteria set out in section 59 of the Regulation, was not reasonably supported by the evidence. Therefore, the Panel rescinds the Ministry's Decision, and the appellant is successful in her appeal.

## **SCHEDULE OF LEGISLATION**

### **Employment and Assistance Act**

#### **Section 4**

#### **Income assistance and supplements**

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

### **Employment and Assistance Regulation**

#### **Section 59**

#### **Crisis supplement**

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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.

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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

Bill Farr

Signature of Chair

Date (Year/Month/Day)

2023/09/23

Print Name

Simon Clews

Signature of Member

Date (Year/Month/Day)

2023/09/23

Print Name

Joseph Rodgers

Signature of Member

Date (Year/Month/Day)

2023/09/23