

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("the Ministry") reconsideration decision of January 6, 2023, in which the Ministry determined that the Appellant was ineligible for a crisis supplement for mold remediation in her home.

The Ministry found that the Appellant met the following requirements: no resources available; and failure to obtain the item or meet the expense will lead to imminent danger to physical health or a child being removed under the *Child, Family and Community Service Act*.

However, the Ministry is not satisfied that the mold remediation is an unexpected expense, or an item unexpectedly needed.

Part D - Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (the Regulation) section 57 and Schedule A section 5(2)(f)

(The relevant Legislation is in the Schedule of Legislation at the end of the Panel's Reasons)

Part E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act, on April 15, 2024.

The Appellant is a sole recipient of disability assistance. She receives \$1,535 per month for disability assistance and supplements. This amount includes \$983.50 for a support allowance, \$500 for a shelter allowance and \$52 for supplements.

Information Before the Ministry at Reconsideration

- An estimate for mold remediation, dated April 11, 2022. The estimates notes that \$2,231.25 deposit is required and the remaining amount \$2,231.25 is due upon completion, which totals \$4,462.50.
- An estimate for restoration services and safe treatment of mold, dated April 21, 2023. The estimate total is \$10,202.87.
- A letter from an advocacy group, dated December 11, 2023. The letter highlights that the crisis legislation refers to an unforeseen situation that suddenly interferes with a person's ability to pay the expense or obtain the item. The letter explains that the Appellant does have an unexpected expense because the current cost of the mold remediation has increased significantly since she first sought an estimate. The cost is beyond the Appellant's ability to pay.
- A letter from a health professional dated December 1, 2023. The writer explains the Appellant suffers from a medical condition, that she spends a lot of time in her home. The writer states that while they cannot definitively link mold exposure to the Appellant's symptoms, if there is documented mold risk exposure inside the home then they cannot completely exclude this as contributory.
- Two invoices from a company for Radon services. The first is dated October 20, 2021, in the amount of \$385.06. The second is dated July 26, 2022, in the amount of \$3,642.29.
- An invoice from a roofing company, dated September 3, 2021. The total amount indicated is \$8,194.57.
- A request for reconsideration denied the Appellant's request, indicating the reason for denial was because the request is not to meet an unexpected expense or obtain an item unexpectedly needed. The Appellant writes as her reason for requesting a reconsideration (summarized):
 - When she purchased her home in April 2021, she knew mold was an issue. After she took ownership, she found out that a leaking roof was the cause of the growth of the mold. She replaced the roof at a cost of \$8,194.57.
 - By the time she obtained an estimate for mold remediation, a year had gone by and the cost for remediation would cost \$4,250 plus tax.

- When she purchased the home, she was unaware of the radon issue. Because the radon levels were very high, this work was prioritized and done in July 2022. The cost totalled \$3,642.29.
- Within the last few months, her health has been significantly adversely affected by the mold and she sought medical care. These health concerns are significant and unexpected.
- The cost to have the mold remediated has more than doubled. The current estimate, from November 2023, is \$10,202.87, plus tax.

In its reconsideration decision, the Ministry writes that they had previously established that the Appellant does not have any available resources and that her health would be in imminent danger if she is unable to have the mold remediation done.

However, the mold remediation cost is not considered an unexpected expense because:

- The Appellant was aware she had a mold issue when she purchased her home. However, she treated the radon problem and replaced the roof, but did not fix the mold issue. The Ministry notes that because the Appellant did not provide a copy of the home inspection done at the time the mortgage was approved, they are unable to determine that she was unaware that she would need to address the roof and radon treatment as well as the mold issue at the time she bought the home.
- Although the Appellant argues that she was unaware that the cost of the mold remediation would increase so significantly since the first quote in April 2022, it is not unreasonable to expect that the price of remediation would change due to increased inflation and the significant time between the first quote and the quote received in November 2023.
- Therefore, the Ministry is not satisfied that the need for mold remediation is unexpected or that she has incurred an unexpected expense.
- Further, mold remediation is considered an actual shelter cost in accordance with Schedule A section 5(2)(f) of the Regulation because she is a homeowner completing repairs to her residence. This means that the request is subject to the limitations set out in section 57(4) of the Regulation. The maximum that may be provided is limited to the lesser of the total of the support and shelter rate or the amount of actual shelter costs. In the Appellant's circumstance, \$1,483.50 is the combined support and shelter rate, so this is the maximum amount which would be provided, if approved.

Information Provided After Reconsideration

The Appellant did not provide any additional information or a written submission.

The Ministry relies on the record of Ministry decision as their submission in this matter.

Part F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision denying the Appellant a crisis supplement for mold remediation in her home is reasonably supported by the evidence or is a reasonable application of the legislation.

Panel's Decision

Section 57(1) of the Regulation states, in addition to the requirement that the person must be in receipt of assistance, that there are specific conditions that must all be met to qualify for a crisis supplement. These conditions are: the supplement must be for an unexpected expense or an item unexpectedly needed; there are no resources available to the family; and there must be imminent danger to health if the expense was not met or the item was not provided. The appellant is a recipient of disability assistance, and the ministry has determined the appellant does not have resources available to her and there was imminent danger to her health. However, they do not consider mold remediation to be an unexpected expense, or an item unexpectedly needed.

The Appellant argues that the cost of doing mold remediation on her home has gone up substantially from the first estimate of \$4,250 in July 2022 and the more recent estimate of \$10,202.50 (plus tax) in November 2023. The substantial increase was unexpected and well beyond her financial capacity.

The Ministry argues that the Appellant was aware that mold remediation was necessary when she purchased the home in April 2021 and there was no evidence provided to demonstrate that the roof repair and radon treatment had to be done prior to the mold remediation. Further, it is not unexpected that the cost of having the mold remediation done would have increased because of increased inflation and the significant time between quotes.

The panel notes that the Appellant knew that mold remediation was necessary when she purchased the home in April 2021 and did not request an estimate to have it remediated until July 2022. The panel acknowledges that it makes sense to do the roof repair first to avoid further leaks. The Appellant's reasoning that a roof and other repairs were needed does not take away the fact that she was aware that mold remediation was also necessary. The panel finds because the Appellant was aware that mold remediation was needed since April 2021, it cannot be considered an unexpected expense, or item unexpectedly needed.

The Appellant asked that the increased estimate of the mold remediation be considered an unexpected expense. The Ministry considers it reasonable to expect the cost of mold

remediation to be higher due to increased inflation and the significant time lapse between the two estimates.

The panel notes that the original estimate of \$4,250 from April 2022 was from a different restoration company than the second estimate of \$10,202.87 (plus tax) in November 2023. The Appellant wrote that she prioritized having the radon treatment done in July 2022 because of the very high levels of radon throughout her home. However, she did not provide any additional explanation as to why she waited until November 2023 to investigate once again having the radon treatment done. There is no evidence to explain why a different company was approached quoting such a significant increase.

The Ministry also determined that they consider the higher remediation cost is expected because of increased inflation. However, the second estimate is more than double the cost which seems excessively high to be attributed to the cost of inflation. Perhaps additional work was required, which could account for the increase in price. However, that is speculation, not evidence. The panel had insufficient evidence to understand why the price of the mold remediation increased so significantly. Was it due to the Appellant waiting an additional 19 months, or was it was a different company quoting for different work?

For the reasons noted above, the panel finds that the increased estimate cannot be considered unexpected expense, or item unexpectedly needed. Therefore, the panel finds the Ministry was reasonable in their decision.

In their decision, the Ministry also noted that mold remediation is considered an actual shelter cost in accordance with Schedule A section 5(2)(f) of the Regulation because the Appellant is a homeowner completing repairs to her residence. The Appellant does not dispute that she is the homeowner, and the mold remediation is to repair her home.

This means that the Appellant's request for is subject to the limitations set out in section 57(4) of the Regulation. Section 57(4) sets out that if a crisis supplement is for shelter, that the maximum amount that may be provided is the smaller of the family unit's actual shelter cost (mold remediation cost) and the sum of the maximum set out in section 2 of Schedule A (support and shelter allowances). In the Appellant's circumstance this means the smaller is the amount of disability assistance for support and shelter that the Appellant receives per month, which is \$1,483.50.

Therefore, the panel finds that even if the Appellant had been approved for a crisis supplement for mold remediation, which she wasn't, the total amount being requested would not have been authorized.

Conclusion

The panel finds that the Ministry's decision that the Appellant was not eligible for a crisis supplement for mold remediation in her home was a reasonable application of the legislation in the circumstances of the Appellant. The Appellant is not successful on appeal.

Relevant Legislation

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.

(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 \$50 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 sum of

- (A) the maximum set out in section 2 of Schedule A, the maximum set out in section 4 of Schedule A and any supplement provided under section 54.3 [*pre-natal shelter supplement*] or Division 7 [*Housing Stability Supplement*] of Part 5 of this regulation, or
- (B) the maximum set out in Table 1 of Schedule D, the maximum set out in Table 2 of Schedule D and any supplements provided under section 54.3 or Division 7 of Part 5 of this regulation,

as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided in the 12 calendar month period preceding the date of application for the crisis supplement is \$110 for each person in the family unit.

(5) and (6) Repealed

(7) Despite subsection (4) (b), 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

Schedule A

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the family unit;
- (d) property taxes for the family unit's place of residence if owned by a person in the family unit;
- (e) utility costs;
- (f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

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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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2024/04/15

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2024/04/15

Print Name

Effie Simpson

Signature of Member

Date (Year/Month/Day)

2024/04/15