

Part C – Decision Under Appeal

The decision under appeal is the decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated March 12, 2024, which held that the appellant’s request for a crisis supplement to replace the siding of her home is not subject to reconsideration in accordance with section 17 of the Employment and Assistance for Persons with Disabilities Act (the “Act”). The ministry stated that because there was no change in circumstances since the right to reconsideration and appeal were exercised respecting the appellant’s original application for a crisis supplement to replace the siding, there is no right to reconsideration respecting the reapplication.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, section 17

This section of the legislation can be found at the end of the decision.

Part E – Summary of Facts**Information before the ministry at reconsideration**

A quote dated June 28, 2023 for new vinyl siding is \$15,500.

In a letter dated October 30, 2023 the appellant's doctor writes:

- "Patient has chronic medication [sic] conditions such as chronic kidney disease, asthma and allergic rhinitis.
- She has ongoing breathing difficulties requiring the use of an inhaler.
- Exposure to mold will exacerbate her medication conditions and worsen her symptoms."

From the ministry file:

- On July 5, 2023 the appellant requested a crisis supplement for home repair for vinyl siding.
- On July 13, 2023, the ministry denied this request.
 - In part, the ministry noted that "mold has been remediated in 2021 when the ministry paid \$25,8892.42 for the work to be completed."
- On August 1, 2023, the appellant submitted a Request for Reconsideration.
- On September 8, 2023, the ministry informed the appellant that her request was denied at reconsideration.
- On October 26, 2023, an appeal hearing was conducted, and the appeal tribunal confirmed the ministry's decision to deny the appellant's request.
- On December 8, 2023 the appellant made another request for a crisis supplement for home repair for vinyl siding.
- On February 5, 2024, the ministry determined the request continued to not meet the criteria for a crisis supplement and denied the request.

On February 27, 2024 the appellant submitted a Request for Reconsideration.

- She wrote:
 - She contacted her mother's insurance company and was advised that they will not cover any of the repairs on the trailer.
 - Her mother, who is retired and on a fixed income, has helped pay for some of the repairs over the years but she isn't able to afford this anymore.
- She attached 5 images:
 - 1. Screw or nail sticking out of a white surface material
 - 2. Discoloration on white surface material
 - 3. Screw sticking out of decaying construction material

- 4. Screw sticking out of dated wooden board
- 5. Same as 4.
- 6. screws sticking out of dated window frame

New Information

The appellant provided a Notice of Appeal dated March 26, 2024.

- She wrote:
 - "...the renovations to remediate the mold issues in my trailer began in 2020, however, unexpectedly the initial contractors either did shoddy work or did not complete work. Another contractor was hired in 2021. This contractor did some renovations but also did not complete the work as expected and spent most of the money leveling the trailer. Which left the trailer open to ongoing damage from water, cold and rodents...shoddy repairs along with the holes in the exterior siding and skirting exacerbated the interior mold issues.
 - The 2021 contractor reported to me and the ministry that the work was completed but under inspection, by the most recent 2023 contractor I hired this was found not to be true and must be remediated".
 - I do not have alternate resources available due to limited income and my mother is retired and on a fixed income. My mother ... can no longer contribute to the ongoing expenses ... I contacted the insurance company, and they advised me that they would not help cover any cost of the repairs to the trailer. I do not have access to any other sources of money to pay for the repairs of my trailer...
 - There have been ongoing mold issues since 2022, that were not remediated as mentioned and have resulted in danger to the health of both me and my [child] ...
 - The damaged siding has contributed to the water and mold inside my trailer...
 - The skirting on my trailer was never properly fixed ..."
 - Her medical conditions have become worse due to continued exposure to mold.

With her Notice of Appeal the appellant provided an undated letter by the same contractor who provided the June 28, 2023 quote.

- At the hearing the appellant stated that this letter may have been written together with the June 28, 2023 quote, but she is not sure.
- The contractor wrote:
 - "After inspecting [the appellant's] mobile home, I have seen a lot of poor quality work along with unfinished jobs...Most of the frame is rotten or

missing...The tin exterior of the home is in need of replacement. Most screws are not holding to the thin 3/8 inch plywood from being loose allowing water access to rust and rot the wall..."

With her Notice of Appeal, the appellant submitted an online article titled "The Benefits of Proper Siding Maintenance and Repair".

On April 9, 2024 the appellant submitted the following:

- Ministry notes between February 17, 2021 and November 20, 2023. They contained, in part, the following information:
 - May 13, 2021: "... This wkr contacted many contractors that are reputable ... [Contractor A] was referred to this wkr as an honest and reputable contractor. [They have] assessed client home and found that there is excessive issues with the original work that was done wrong and have caused mildew and mold issues in porch... Also trailer has settled and shifted to the point where outside door doesn't close properly. Client has [contractor B] come and quote the levelling of her trailer that must happen before the roof over the entrance can be fixed" which cause issues with moisture. 1 room full of mold and mildew because original job was not done right.
 - October 1, 2021: "Contract signed 2021Sept02 w/[contractor 1] to complete crisis home repairs, as per Tribunal rescind decision."
 - August 25, 2023: Supervisor call-back: "Client explained she has been doing home renos for approx. 4 years..."
- Text conversations between the ministry and the appellant between July 2022 – January 2023 regarding repair work on the appellant's home.
- A re-submission of the June 28, 2023 quote for new vinyl siding.

At the hearing the appellant repeated information from her appeal submissions. To a question from the ministry the appellant responded that she thinks it was over the phone that the insurance company denied her claim to pay for home repairs. She is not completely sure. To a question from the ministry whether the appellant ever sought remedy via the Better Business Bureau or the Court system for any unsatisfactory work from contractors, the appellant replied she has tried but has no records of it. To questions from the panel the appellant replied that she and her mother are joint owners of the mobile home. She does not pay rent to her mother but pays the pad rent.

The ministry presented their reconsideration decision and, to a question from the panel, responded that, while the ministry may provide funds, it is the homeowner's responsibility to monitor the progress of the contractors' work.

Admissibility of New Information

The panel finds that the information provided by the appellant and the ministry on appeal and at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, as it contributes to the panel's understanding of the circumstances surrounding the appellant's request for a crisis supplement for home repairs and the ministry's denial to issue a reconsideration decision. The panel therefore admits this information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the ministry’s decision to not issue a reconsideration decision was reasonably supported by the evidence or a reasonable application of section 17 of the Act.

Section 17 sets out that no right of reconsideration or appeal exists in respect of a second or subsequent application unless there has been a change in circumstances relevant to the ministry’s determination.

Appellant’s position

The appellant’s position is that she should be eligible for a crisis supplement to replace the siding of her home because the contractors’ work was not satisfactory, she still has mold issues in her home, her insurance will not pay for the requested repairs and her mother cannot afford to pay for additional repair costs.

Ministry’s position

The ministry’s position is that the appellant’s request is not subject to reconsideration in accordance with section 17 of the Employment and Assistance for Persons with Disabilities Act. She has exercised her right to request a reconsideration on this matter on September 8, 2023, and her right of appeal on October 26, 2023, and there has been no change in circumstances since the original decision was made on July 13, 2023.

Panel Decision

The panel finds the ministry was reasonable when it refused to issue a reconsideration decision in respect to the appellant’s December 8, 2023 request for a crisis supplement to replace the siding of her home.

The panel finds that the December 8, 2023 request was essentially identical to her previous July 5, 2023 request, which was denied by the ministry in its original decision and subsequently at reconsideration. The decision was then confirmed by the appeal tribunal after a hearing on October 26, 2023. The appellant does not dispute this.

The panel finds there is insufficient evidence of a change in circumstances relevant to the tribunal’s decision.

The panel finds that there is insufficient evidence that the appellant's availability of resources has changed. While the appellant stated that now she has no resources available because her mother can no longer help pay for repairs, the appellant does not provide any documentation that the insurance company refused to pay for repairs. In addition, the ministry noted that the "mold has been remediated in 2021 when the ministry paid \$25,889.42 for the work to be completed."

While the appellant argues that her medical conditions have become worse due to mold in her home, there is no medical evidence that the appellant's health has become worse since the tribunal decision.

According to the appellant, her mold issue started multiple years prior to the tribunal's decision. She has not reported any information on changes regarding the presence or absence of mold in her home since the tribunal decision.

While the panel finds that the ministry was reasonable when it did not issue a reconsideration decision, the panel notes that the ministry's decision could have been more comprehensive and helpful had the ministry provided details of the previous appeal panel's decision and analysis.

Conclusion

The panel finds that the ministry's decision that the appellant's request for a crisis supplement to replace the siding of her home is not subject to reconsideration was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is confirmed, and the appellant is not successful on appeal.

Employment and Assistance for Persons with Disabilities Act

Reconsideration and appeal rights

16 (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:

(a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;

[(b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;

(c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;

(d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of

(i) the maximum amount of the supplement under the regulations, and

(ii) the cost of the least expensive and appropriate manner of providing the supplement;

(e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].

(2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.]

(3) Subject to a regulation under subsection (5) and to sections 9 (7) [*employment plan*], 17 and 18 (2) [*overpayments*], a person who is dissatisfied with the outcome of a request for a reconsideration under subsection (1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal.

(4) A right of appeal given under subsection (3) is subject to the time limits and other requirements set out in the *Employment and Assistance Act* and the regulations under that Act.

(5) The Lieutenant Governor in Council may designate by regulation

(a) categories of supplements that are not appealable to the tribunal, and

(b) circumstances in which a decision to refuse to provide disability assistance, hardship assistance or a supplement is not appealable to the tribunal.

No appeal from decision based on same circumstances

17 If a person reapplies for disability assistance, hardship assistance or a supplement after

(a) the eligibility of the person's family unit for the disability assistance, hardship assistance or supplement has been determined under this Act,

(b) a right of appeal under section 16 (3) has been exercised in respect of the determination referred to in paragraph (a), and

(c) the decision of the tribunal in respect of the appeal referred to in paragraph (b) has been implemented

no right of reconsideration or appeal exists in respect of the second or a subsequent application unless there has been a change in circumstances relevant to the determination referred to in paragraph (a).

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 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*.

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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) and Section 24(1)(b)
Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2024/04/23

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2024/04/23

Print Name

Katherine Wellburn

Signature of Member

Date (Year/Month/Day)

2024/04/23