

Part C – Decision Under Appeal

The issue under appeal is the Ministry of Social Development and Poverty Reduction (“the Ministry”) Reconsideration Decision of May 2, 2024. The Ministry held the Appellant was not eligible for a crisis supplement under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation to pay for a Tempur-Pedic memory foam mattress.

Specifically, the Ministry was satisfied:

- the Appellant was eligible for disability assistance; and,
- she had no resources to meet her need.

The Ministry was not satisfied:

- the crisis supplement was required to meet an unexpected expense, or an item unexpectedly needed; and,
- failure to obtain the item would lead to imminent danger to the Appellant’s physical health.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, Section 57 (the “Regulation”).

Full text of the legislation is in the Appendix.

Part E – Summary of Facts

The hearing took place by teleconference on May 31, 2024.

Evidence before the Ministry at Reconsideration

The Appellant is part of a family unit of two, herself and her son. She receives \$2,105.50 per month for disability assistance and supplements. This amount includes \$1,133.50 for a support allowance, \$695.00 for a shelter allowance, \$225.00 for monthly nutritional supplements, and \$52.00 as a transportation supplement. In addition, she receives \$648.94 from Canada Child Benefit, \$226.67 from Family Bonus, and \$250.00 from child support, which are exempt as income.

On December 8, 2023, the Appellant was given a crisis supplement of \$399.99 to purchase a bed as her previous mattress had worn out and was causing her to have severe back pain.

On January 11, 2024, the Appellant was given an additional crisis supplement of \$974.39 to purchase a bed for herself as she said she had to throw hers out as it was causing her intense back pain.

On March 14, 2024, she requested a crisis supplement for a Tempur-Pedic memory foam mattress. She stated, *"The foam was worn down to nothing! I have nothing to sleep on, sleeping on the floor"* and explained that she has severe back issues. The Appellant notes that she only needs the mattress as she already has a bedframe. Her original request was for \$5,000.

Included in the Appellant's request were the following documents:

- A prescription for a Tempur-Pedic memory foam mattress, dated March 14, 2024.
- A screenshot of the contact information for Leon's Furniture.
- A screenshot of a Tempur-Pedic LuxeAlign mattress on the Leon's website.
- A screenshot of a mattress with a price of \$3,849.00.
- A screenshot of an online shopping cart, showing a total amount of \$4,488.96.
- A screenshot of a Tempur-Pedic ProSupport mattress on the Brick website.
- Two screenshots of a price for a mattress, showing as \$2,949.95.
- A screenshot of an online shopping cart, showing a total amount of \$3,404.69.
- A screenshot of a Tempur-Pedic Pro-React mattress, showing a price of \$2,799.00

On April 18, 2024, the Ministry denied the Appellant's request for a Tempur-Pedic memory foam mattress because she did not demonstrate that an unexpected situation occurred. As stated above, she was provided a crisis supplement for a new bed in January of 2024.

On April 23, 2024, the Appellant submitted a Request for Reconsideration stating, "I am in urgent need putting my health and safety at risk."

On May 2, 2024, the Ministry completed its review of her Request for Reconsideration, noting she had been provided crisis supplements in December 2023 and January 2024. The Appellant did not explain how the situation was unexpected having just received a supplement for new mattress and bed and that no explanation was provided as to why the mattress foam wore out, or whether this was specific to the bed(s) recently purchased.

On May 10, 2024, the Appellant submitted her Notice of Appeal. She stated,
I disagree because the memory foam Tempur-Pedic mattress that I need is about \$3,000. I do not have the funds. I am not working and do not have the credit to afford this mattress. I have severe back issues, lumbar spinal stenosis, neurogenic claudication, and degenerative disc disease, and I also have medical evidence to prove my point.

On May 17, 2024, the Appellant provided the following additional information:

- A request from the Appellant's doctor, dated December 10, 2015, stating "This patient has lumbar stenosis and it is mandatory and medically necessary that she have a specific Tempur-Pedic bed or the condition may be severely compromised."
- Documentation dated March 10, 2017, related to prescriptions for spinal stenosis, and documentation dated May 18, 2017 that states the Appellant has chronic back pain, CT lumbar spine, spinal stenosis, (it is) worse over the last 3 days, (she) expresses a lot of pain in the lumbar area, etc.
- In her email to the Tribunal of May 17, 2024, the Appellant states:
 - *Hi there*
I sent all of the information I have lumbar spinal stenosis, degenerative disc disease, and neurogenic qualification with mobility issues. It does say that I need a memory foam Tempur-Pedic mattress, and that it is severe and will compromise safety and health.!! Also, I want to mention that the Ministry's decision was wrong because of the fact that the mattress that was ordered was for my son and not myself.

Information presented at the Hearing.

At the hearing, the Appellant provided the following evidence:

- She is a little person and has multiple conditions affecting her back: These include neurogenic claudication with complications, lumbar spinal stenosis, cauda equina, and degenerative disc disease. She has the back of an elderly person.
- She needs a memory foam mattress to provide support for her back so that she can sleep.
- She has attempted to get a loan to pay for the mattress, but she could not find a lender for this.
- She has medical evidence in support of her diagnoses.

When asked, the Appellant provided the following information.

- In addition to the medical information (from 2015 and 2017), she provided in her supplementary submission of May 17, 2024, she can provide updated CT and MRI scans. Her conditions have become worse. She has severe pain in her left leg. At times her left foot goes ice cold. She can have the complication of urinary incontinence. Surgery could leave her with a 50% chance of permanent incontinence.
- The monies she received in December 2023 and January 2024 were for her son's bed. He is also a little person. The money she received did not cover the full cost of the bed, so she was told to apply twice.
- She applied for the mattress on My Self Serve and was only able to indicate a new bed was needed for her family unit.
- Her son does require the memory foam mattress.
- According to the Appellant, these mattresses would not give her close to what was needed.
- She has updated medical records that are current which she can provide. These records show she has other conditions.

The Ministry representative reviewed the Reconsideration Decision. She noted crisis supplements are issued to a specific person. She said, according to the Ministry's records, the Appellant herself was provided with the supplement (not her son). This was clear in the records for both December 2023 and January 2024. The Ministry representative also noted that in the Reconsideration Decision the Appellant was advised at the time that she needed to get a mattress appropriate to her needs. The Representative noted no explanation had been provided why the new mattress no longer met her needs after only two months.

When asked by the Panel the Ministry Representative provided the following information:

- The Ministry requires applicants to seek the least costly item that will meet their needs. In this case a supplement for a better mattress was issued in January 2024. This was in addition to the supplement issued in December 2023.
- The Ministry will issue benefits for the child as well as the parent.

Admissibility of New Evidence

The Panel is authorized under Section 22(4) of the *Employment and Assistance Act*, to consider evidence in addition to the information the Ministry had at the time of the Reconsideration Decision if it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. In this case the Appellant provided a supplementary submission as well as additional evidence at the hearing. No new evidence was submitted by the Ministry before the hearing although clarification on details of the Reconsideration decision and Ministry practice were provided at the hearing. The Panel admits all the above into evidence as it meets the above criteria.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's Reconsideration Decision, which found the Appellant is not eligible for a crisis supplement under Section 57 of the Regulation, was reasonably supported by the evidence or was a reasonable application of the applicable provision in the circumstances of the Appellant. Under section 57 of the Regulation, the minister may provide a crisis supplement to a family unit when all of the following criteria are met:

- The family unit is eligible for disability assistance or hardship assistance;
- The crisis supplement is required to meet an unexpected expense, or an item unexpectedly needed;
- There are no resources available; and,
- Failure to obtain the item or meet the expense will lead to imminent danger to the family unit's physical health or a child being removed under the *Child, Family and Community Service Act*.

Appellant's Position

According to the Appellant:

- She has severe back issues, including spinal stenosis, neurogenic claudication, cauda equina, and degenerative disc disease.
- She has medical evidence to prove this (additional to the submission provided to the Tribunal with medical information from 2015 and 2017).
- She requires about \$3,000 to purchase the Tempur-Pedic mattress she needs.
- She has no funds to purchase this as she is not working and has no access to credit.
- The supplements provided to her in December 2023 and January 2024 were for a bed for her son.
- Due to how the My Self Serve works, she was only able to indicate a new bed was needed for her family unit, not for her or her son specifically.

Ministry's Position

The Ministry was not satisfied the Appellant's need for the mattress was unexpected. The Appellant received crisis supplements in December 2023 and January 2024 to purchase a bed. The records associated with this are clear: the supplements were for the Appellant herself. No explanation is provided about why the foam on these mattresses had worn out and why it was causing the Appellant back pain. It is not clear if the mattress under discussion is part of the same beds purchased in December 2023 and January 2024.

The Ministry was satisfied the Appellant did not have resources to meet this need.

The Ministry was not satisfied the failure to purchase another bed would result in imminent danger to the physical health of a family member. The Appellant did not provide sufficient evidence to show the bed purchased in January 2024 no longer meets her medical needs, or that her condition will become worse if she does not get a new bed.

The Ministry submitted the Appellant does not meet the criteria under Section 57 of the Regulation, she is not eligible for a crisis supplement.

Panel Reasons

The Panel must consider whether the Ministry was reasonable in determining that the Appellant did not meet the legislated requirements to receive the crisis supplement. In this case, the Ministry was satisfied the Appellant is eligible for disability assistance and that she did not have resources available for such an expense.

Regarding the requirement that the need for the new mattress arose unexpectedly, the Appellant said the beds funded in December and January were not for her but for her son. Due to how the My Self Serve works, she was only able to indicate a new bed was needed for her family unit, and not for which member of the family. The Ministry's records, however, show that the supplements were for her and were to meet a need for a new mattress as hers was worn out. The Ministry found that the Appellant had not provided sufficient evidence to show why these beds had become inadequate so quickly. In this case the Appellant's assertions put forward in her appeal and at the hearing contradict the information available to the Ministry at reconsideration. That is, the beds funded in December and January were for her son, while the funding for a bed requested in March was for the Appellant. The Appellant did not offer any documentation to support her position that the beds were for her son. Absent this, the Panel must give greater weight to the Ministry's records that the crisis supplements were for a bed for the Appellant.

The Ministry found that the Appellant was not at risk of imminent physical danger (or at risk of removal of a child under the *Child and Family Services Act*.) The evidence available to the Ministry at reconsideration was limited to a prescription from the Appellant's doctor dated March 14, 2024, stating she needed a Tempur-Pedic mattress, as well as the Appellant's assertions as to how her lack of a proper mattress was causing pain and affecting her sleep. The Panel finds that the Ministry was reasonable in determining that the Appellant did not provide sufficient evidence to show the bed purchased in January 2024 no longer meets her medical needs, or that her condition would become worse if she does not get a new bed.

With respect to the Appellant's additional submission, the medical information provided by the Appellant regarding her need for a Tempur-Pedic mattress is from 2015 and 2017. Although the Appellant says she has more recent information available, she did not provide it to the Panel in time for the hearing, nor did she request an adjournment at the hearing. The Panel is willing to accept that these conditions are ongoing challenges to the Appellant, nonetheless this information is not current. In sum, the Panel finds the Ministry's determination, that the Appellant does not meet the requirement of the need for the mattress arising unexpectedly and that there is no imminent risk of physical danger, reasonable.

Concluding Decision

The Panel finds the Ministry's determination that the Appellant's need did not arise unexpectedly and that she was not in imminent physical danger as set out above reasonable. As the Ministry had found the Appellant had no resources to meet the expense (and she was eligible for disability assistance), this was not considered by the Panel. As the Appellant needs to meet all four requirements to be eligible for the requested crisis supplement, the Appellant is not successful on appeal. Accordingly, the Panel confirms the Reconsideration Decision.

Appendix

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 supplements 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 maximum 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. [B.C. Reg. 248/2018, App. 2, s. 2.]

(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.

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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

Corrie Campbell

Signature of Chair

Date (Year/Month/Day)

2024/06/07

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2024/June/04

Print Name

Ken Smith

Signature of Member

Date (Year/Month/Day)

June 10th, 2024