

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "Ministry") Reconsideration Decision of May 7, 2024. In the Reconsideration Decision the Ministry determined that the Appellant was not eligible for a crisis supplement for food.

The Ministry found that the Appellant does not have the resources to obtain food and that, if the Appellant does not obtain food, he will experience hunger and his health will be in imminent danger.

The Ministry found the Appellant was not eligible to receive income assistance in April and, therefore, was not eligible to receive supplements. The Ministry was not satisfied that the need for food was due to unexpected circumstances.

Part D – Relevant Legislation

Employment and Assistance Act – Section 4 (the "Act")

Employment and Assistance Regulation – Section 59 (the "Regulation")

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

A written hearing was held June 5, 2024. The Panel members met via teleconference.

Background

- The Appellant is a sole recipient of income assistance, receiving \$1060 per month.

Information before the Ministry at the time of reconsideration included the following:

- Request for Food – Crisis Supplement, completed by Appellant and dated April 18, 2024. The questions and answers were:
 - “Is the situation that led to your request unexpected?”, the Appellant responded “No”.
 - “How much money do you think you require to meet your need?”, the Appellant responded \$2120.
 - “Do you have money on hand, in a bank account, or otherwise available to you that might meet your need?”, the Appellant responded, “I haven’t been paid for two months I need to get paid what are you doing? I have been asking time and time again I had surgery and recovering I am not able to leave and I will be evicted if I don’t have money to pay my rent and the payday loan.”
 - “If you are unable to meet your need, will this result in imminent danger to your physical health or the physical health of any other person in your family unit?”, The Appellant responded, “Of course it already has put me in hospital because of the stress you have caused me.
- Reasons for Request for Reconsideration dated April 27, 2024. The Appellant:
 - Expresses his frustration with the process and how he has been treated.
 - He has significant debts (two months rent and living expenses) because he has not received his income assistance.
 - He has vision problems and is awaiting another surgery to address this.
 - He does not have a phone.
 - The Appellant also attached two documents to substantiate the statement that he had surgery:

- An exchange dated March 27 – 29 between the Appellant and the MOA for Dr. L discussing vision problems caused by an earlier surgery and requesting an appointment with a different doctor.
- A note from the Appellant to the Ministry dated April 8, 2024, discussing his mental state and the quantity of medications he is taking.

Information submitted after the Reconsideration Decision

- Notice of Appeal dated May 7, 2024, in which the Appellant states in the Reasons for Appeal:
 - He is bedridden due to many medical issues.
 - He can't see. He has had eye surgery and is awaiting another eye surgery.
 - He had a thyroidectomy which damaged his vocal cords so he can't speak.
 - He has not been paid his monthly payment since March. He believes this is because the agent that worked on his direct deposit request did not see that he had asked them to send his payment to his new bank account and instead sent a check for pick up from the office. He had told them repeatedly that he is bedridden and unable to go anywhere or speak and has no way to communicate with them other than opening service requests.
 - He is on the verge of being evicted because he's late with his rent. He also owes money to payday loans.
 - He must beg food from his roommates and finds this very humiliating.
- Appellant Submission dated May 22, 2024
 - The Appellant provided a summary of the medical treatments he had had:
 - A thyroidectomy, which resulted in vocal chord paralysis due to the breathing tube causing injury during the procedure. As a result, he cannot speak and requires speech therapy and further operations to correct.
 - Three-wall decompression surgery because of Thyroid Eye Disease resulting from the removal of the Thyroid.
 - Heart surgery because, during preparation for the thyroid surgery, the doctors noticed a heart murmur. A subsequent echocardiogram confirmed he had a hole in his heart.

- His mental health deteriorated into deep depression resulting in several hospitalizations and a stay at a mental health residential facility.
- The Appellant provided a chronology of the interactions he had had with the Ministry:
 - Sometime prior to March 25th, he realized he had not received his income assistance payment. Upon contacting his bank, he found they had closed his account without warning because his credit score made him a bad risk. They had returned his payment to the Ministry.
 - On March 25th, he submitted a service request with his new bank account details and a note that said, "Please send my payment to my new (bank) account. I am bedridden and unable to move." The Ministry changed the deposit information but sent his payment for pickup at the office. They closed the service request with the status "closed service provided".
 - On March 27th, he submitted a crisis shelter service request, again including the deposit information. The request was closed with no explanation.
 - On April 4th, he submitted a crisis food supplement request hoping it would get a better response time. Again, the request was closed with no explanation.
 - On April 9th, he submitted another direct deposit service request, resending all the information he had previously submitted. Again, the request was closed with the status "Closed service provided" and no other explanation.
 - On April 18th, he submitted another crisis food supplement request and again stated his situation. On April 22nd, he got a response for the first time, stating: "You are not eligible for income assistance; therefore you are not eligible for a crisis food supplement. You are required to present yourself in a ministry office and provide confirmation of the surgeries you have claimed."

- Ministry Submission dated May 29, 2024
 - The Ministry indicated they would rely on the reconsideration summary provided in the Record of Ministry Decision and provided the following new information:
 - The Appellant received \$1060 for income assistance for the month of March 2024.
 - The Appellant has not received income assistance or hardship assistance for the months of April and May 2024.
 - This appeal is a review of the decision to deny the Appellant's request for a crisis supplement for food only.
 - There is a separate service request open for the review of eligibility for income assistance that has not yet been completed.

During the Hearing

The Panel determined that it required further submissions and requested them from the parties in a letter stating:

...During the Panel's deliberations, it was noted that a reason for denying the supplement was the Ministry determination that the Appellant was not eligible for income assistance at the time of the request. However, the Ministry submission indicates that this question of eligibility is currently the subject of a separate review. The Panel feels that it may be appropriate for the review process concerning the eligibility of the Appellant to be completed prior to the Panel deciding on this appeal.

Accordingly, I write to request both parties provide the panel with their written submissions, if any, concerning the following:

- The status of the referenced review of eligibility including if a decision has been made, the outcome of the decision, and whether the Appellant intends to appeal the decision.
- Any concerns the parties have with adjourning this appeal until the question of eligibility has been resolved.

The Appellant and Ministry provided responses. The tribunal copied each to the other.

Ministry Response

The Ministry reported that:

- An eligibility review was completed on May 29, 2024.
- The review found the Appellant eligible for income assistance for April, May, and June 2024.
- The payments were made on May 31, 2024.

Appellant Response

The Appellant confirmed that the Ministry had approved eligibility and the income assistance for April, May, and June had been received.

Admissibility of New Evidence

The Ministry did not object to the new evidence provided by the Appellant. The Appellant did not object to the responses provided by the Ministry.

The Panel finds that the information provided by the Appellant with the Notice of Appeal and by the Ministry and RN at the hearing is reasonably required for a full and fair disclosure of all matters related to the decision under appeal. It contributes to the Panel's understanding of the circumstances surrounding the Appellant's request for incontinence supplies. The Panel 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 determination that the Appellant is not eligible for a crisis supplement for food was reasonable and supported by the evidence.

The relevant portions of Section 59 of the Regulations say:

- The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if:
 - 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
 - The minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.
- A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- A crisis supplement for food is limited to a maximum amount of \$50 for each person in the family unit.

The Ministry was satisfied that the Appellant did not have the resources to obtain food and that the Appellant's physical health would be in danger if he did not receive food as he would experience hunger. These criteria were not in dispute.

This leaves two criteria that were determined not to have been met:

- Was the Appellant eligible for income assistance?
- Was the supplement required to meet an unexpected expense?

Eligibility for Income Assistance

Section 59 says, "The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance..."

Ministry Position

In the Reconsideration Decision, the Ministry simply states that the Appellant is not eligible for income assistance for the month of April 2024. No reasoning is provided to indicate how they came to this decision. The Request for Reconsideration document adds "You are required to present yourself in a ministry office and provide confirmation of the surgeries you have claimed."

Appellant's Position

The Appellant was unaware that his eligibility was suspended. He knew that his bank had closed his account and sent the deposit back to the Ministry. He submitted new bank deposit information and requested the income assistance be deposited there. Instead, although he had told the Ministry that he was bedridden, they instructed him to attend a Ministry office with documentation as to why he was bedridden.

Panel's Findings

The Appellant had been receiving income assistance through his March 2024 payment and would have received his April 2024 payment had the bank not closed the account and returned it to the Ministry.

The Panel surmises this action by the bank triggered a concern about eligibility and, when the Appellant failed to attend a Ministry office, the eligibility was suspended. The Appellant notified the Ministry immediately that he was bedridden.

No documentation from medical practitioners was provided to confirm the situation. However, there is no evidence of attempts by the Ministry to clarify the Appellant's medical condition and reported inability to attend the Ministry office. As such, the Panel finds that to suspend eligibility because of a failure of the Appellant to attend the office unreasonable under the circumstances.

Whatever the reason, a subsequent review of the decision by the Ministry, as reported in the response to the Panel's request, found that the decision was in error and the Appellant was eligible for income assistance during April, May, and June.

Therefore, the Panel finds that the Ministry was not reasonable in determining the Appellant was not eligible for income assistance.

Required to Meet an Unexpected Expense

Section 59 says, "...if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly..."

Ministry Position

When the Request for Food Crisis Supplement form was completed, the Appellant responded "No" to the question, "Is the situation that led to your request unexpected?" Therefore, the ministry is not satisfied that your need for food is due to unexpected circumstances.

Appellant's Position

In April, the Appellant wrote: "What is happening with my payment for April? ... I have been waiting for a month and you never read my messages and just close the request with closed service provided which is not true because the service was not and has not been provided. I asked multiple times for you to send my money to my new bank account and what you do is send to the office to pick up. Tell me how to get to office when I am bedridden and not mobile. I'm beyond frustrated and overwhelmed with my health issues combined with the stress of money".

Panel Findings

The Appellant reported a litany of medical problems that he asserted left him bedridden, unable to speak, and with severe vision problems. His bank cancelled his account and returned his income assistance payment to the Ministry. Then, despite telling the Ministry he was bedridden, he was told he had to attend an office to get his assistance. Then the Ministry determined him ineligible for income assistance for reasons which, on review, were reversed.

The Panel finds it was unreasonable to expect the Appellant to anticipate, and plan for, a confluence of circumstances such as this. The panel finds that the Appellant faced a series of unexpected circumstances that made it unexpected that he did not have resources for food. The Panel finds that the Ministry was not reasonable in finding that the need for funds for food was not due to unexpected circumstances.

Summary

The Ministry denied the Appellant's request for a food supplement because they found the Appellant was not eligible for income assistance and because the need for food was not an unexpected expense.

The Panel found that, given the totality of the evidence, both Ministry findings were not reasonable.

Conclusion

The Panel finds that the Ministry decision that the Appellant was not eligible for a crisis supplement for food for April 2024 is not supported by the evidence. However, the Panel notes that the request was for \$2,120 while the maximum allowed for a food supplement is \$50. As such, the decision of the Panel cannot be implemented without a further decision as to amount.

Therefore, the Panel rescinds the Reconsideration Decision and refers back to the Ministry to determine the amount payable.

SCHEDULE OF LEGISLATION

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,

...

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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

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
Wes Nelson

Signature of Chair

Date (Year/Month/Day)
2024/06/21

Print Name
David Handelman

Signature of Member

Date (Year/Month/Day)
2024/06/19

Print Name
Richard Franklin

Signature of Member

Date (Year/Month/Day)
2024/06/19