

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision dated July 22, 2024, which found that the Appellant did not qualify for a crisis supplement for a recliner chair.

While it was satisfied that the Appellant did not have the resources to pay for a recliner chair, the Ministry found that the expense was not unexpected. In addition, the Ministry was not satisfied that failure to provide the funds would result in imminent danger to the Appellant’s physical health.

### **Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act* (the “Act”), Section 5

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

***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**

A hearing was held by teleconference on August 7, 2024. The hearing was attended by the Appellant and a representative of the Ministry (the “Ministry Representative”).

The Appellant is a sole recipient of disability assistance.

According to information provided by the Ministry in the Reconsideration Decision:

- The Appellant receives \$1,595.50 per month for disability assistance and supplements, which comprises \$983.50 for a support allowance, \$500 for a shelter allowance, and \$112 for supplements;
- On July 5, 2023, the Appellant received \$727.98 as a crisis supplement to buy a recliner chair;
- On June 25, 2024, the Appellant requested another crisis supplement for a recliner chair; and,
- On July 3, 2024, the Appellant was told by the Ministry that he was not eligible for the second crisis supplement for a recliner chair.

The evidence the Ministry had when it made the Reconsideration Decision included:

- The Appellant’s Request for Reconsideration, dated July 10, 2024, in which the Appellant said:
  - He bought a table and chair in July 2023 instead of a recliner chair that had been approved in 2023 because he needed the table and chair to eat his meals, as otherwise he would have to sit on the floor to eat, which was hard to do due to the varicose veins in his legs;
  - If he hadn’t bought the table and chair, he wouldn’t have been able to eat and he would have died; and,
  - He has a doctor’s note indicating that a recliner chair *“will help with (his) pain and help (the) bad circulation ... in (his) legs”*.
- Two quotes issued by a furniture retailer in the Appellant’s community and in the Appellant’s name, both dated July 17, 2024. One quote identifies a recliner manufacturer’s name, indicating a price of \$749.99 for the chair, including taxes. The other quote identifies a recliner manufactured under a different name, indicating a price of \$985.60 for the chair, including taxes;
- A doctor’s note, dated June 25, 2024, signed by a doctor in the Appellant’s community, and addressed “To Whom it May Concern” (the “First Doctor’s Note”).

The First Doctor's Note says, *"This letter confirms that (the Appellant) has bilateral varicose veins."*; and,

- A doctor's note, also dated June 25, 2024 and signed by the same doctor who signed the First Doctor's Note and also addressed "To Whom it May Concern" (the "Second Doctor's Note"). The Second Doctor's note says, *"This letter confirms that (the Appellant) has bilateral varicose veins. He would benefit from a reclining chair to help with circulation."*

#### Additional Evidence After Reconsideration

The Appellant does not indicate why he disagrees with the Ministry's Reconsideration Decision in the Notice of Appeal, which is dated July 29, 2024.

#### Evidence Presented at the Hearing

At the hearing, the Appellant said that he thinks he is going to die because he is not eating properly and has lost a lot of weight. He explained that he has very painful varicose veins in his legs, diabetes, a *"high stress level"* and severe anxiety. The Appellant said his condition has deteriorated in the past year, and he is now suffering more pain than he used to. He is unable to have a medical operation to treat his varicose veins because he is afraid of having the operation. He said that he is not able to eat properly because of his diabetes, and as a result he is losing weight and thinks he will die of starvation. He also said that he recently had to ask for a crisis supplement for food, which he was given.

He said that before he bought the table and chair he used to have to sit on the floor, and that now he has a table and chair he can sit there to eat but can't sit there for too long because it is uncomfortable, so he also needs a reclining chair.

The Appellant said he was asked by the Ministry for a note from his doctor, which he got and provided to the Ministry. He said he had to ask a friend to drive him to the doctor's office. The Appellant also said that the doctor who signed the two notes was his regular doctor, and that he has relied on that doctor for medical services on previous occasions.

The Ministry relied on its Reconsideration Decision. The Ministry Representative said that upon a further review of the Appellant's file, the Appellant had asked for an earlier crisis supplement for a table and chair, on January 30, 2023, and the Ministry had previously provided him with crisis supplement funding in the amount of \$537.57 on February 8, 2023 to buy a table and chair.

In response to questions from the panel, the Appellant acknowledged that he had received the crisis supplement funding for a table and chair in February 2023, and had purchased those items at that time. He also explained that he bought another table and chair with the crisis supplement he received in July 2023 for the purchase of a recliner

chair because he was unable to use the first table and chair, as the chair was too high and he didn't have the ability to rest his legs on the table, which was something he could do with the table and chair he bought in July 2023. He said he still had the original table and chair in his home, and he now needs a recliner chair because he can only sit at the table for short periods of time. He said his condition has worsened since he bought the first table and chair a year and a half ago. Until he gets a recliner chair he must sit on his bed, which is the only other piece of furniture he has in his home that he can sit on. Otherwise, he would have to sit on the floor, and if he does that he has to get a friend to come over to his home to help him stand up.

The panel asked the Ministry Representative if the Ministry ever follows up with a client who has received a crisis supplement for furniture to confirm that the client used the crisis supplement funding to purchase the necessary item. The Ministry Representative said it rarely does as the Ministry's ability to follow up is limited due to staff workload. As a result the Ministry "*operates in good faith*", and assumes that a client will use the crisis supplement for the requested purpose. When asked whether the Ministry had social workers who could assist clients who needed help acquiring the right kind of furniture in a situation like this, the Ministry Representative said the Ministry did have Community Integration Specialist (CIS) teams who "*will sometimes help (clients) purchase (necessary furniture or equipment)*", but the workload of those teams does not allow them to help everyone, and sometimes the Ministry suggests that clients ask friends or family to help them.

In response to another question from the panel, the Ministry Representative said that the Ministry did not have the resources to help clients sell second-hand furniture that was bought but does not meet a client's needs, in cases where that might provide the client with the financial resources from the sale of second-hand furniture to partially cover the cost of other necessary new furniture.

#### Admissibility of Additional Evidence

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

No new evidence was included in the Notice of Appeal.

New verbal evidence presented at the hearing was the evidence provided by the Ministry about the crisis supplement funding totalling \$537.57 provided to the Appellant in February 2023 for a table and chair. The panel admits this new evidence as it is relevant to the decision. The panel assigns this evidence full weight because the Ministry

Representative provided the specific details from the Appellant's case file and the Appellant did not dispute this evidence.

No new verbal or written evidence was presented at the hearing by the Appellant.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the Ministry's decision that the Appellant did not qualify for the crisis supplement was reasonably supported by the evidence or was a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position

The Appellant's position is that if he hadn't used the money from the Ministry to buy a second table and chair he would have died from starvation, and he needs a crisis supplement for a recliner chair so he can sit with his legs raised because he is in great pain due to his varicose veins.

Ministry's Position

The Ministry's position is that, because the Appellant decided to buy a table and chair with the crisis supplement it had already provided in July 2023 for a recliner chair, the Ministry is not satisfied that the Appellant now has any unexpected need for one. In addition, while the Appellant's doctor says he would benefit from a reclining chair to help with circulation, there is no evidence to indicate that the Appellant's physical health is in imminent danger. Because these two criteria must be met before a crisis supplement can be provided, the Appellant does not qualify for a crisis supplement in this instance.

Panel Decision

The eligibility requirements for a crisis supplement for a person with disabilities are provided in section 57(1) of the Regulation. Section 57 says that a crisis supplement may be provided by the Ministry to or for a family unit that is eligible for disability assistance or hardship assistance if the following conditions apply:

- The family unit must need the supplement to meet an unexpected expense;
- The family unit must be unable to meet an unexpected expense because there are no resources otherwise available to it; *and*,
- The minister must be satisfied that failure to meet the expense will result in imminent danger to the physical health of any person in the family unit.

If all of these conditions apply, section 57(2) says that the crisis supplement can only be provided for the calendar month in which the application or request for the crisis supplement is made.

The Appellant is a sole recipient of disability assistance, therefore he is the only member of the family unit. The panel notes that the Appellant is receiving disability assistance, and as a result is generally eligible for a crisis supplement.

In the decision, the Ministry determined that two of the criteria in section 57(1) of the Regulation had not been met: the expense was not unexpected, and no imminent danger to the Appellant's physical health would result if (they) didn't receive the crisis supplement.

*As to Whether the Crisis Supplement is Required to Meet an Unexpected Expense*

Section 57(1)(a) of the Regulation says that the Ministry may provide a crisis supplement to a family unit that is eligible for disability assistance if a person in the family unit needs the supplement to obtain an item unexpectedly needed.

The term "unexpected" is not defined in the legislation. The Collins Dictionary defines "unexpected" to mean "*an event ... (that) surprises you because you did not think that it was likely to happen*".

The panel notes that the Appellant had already asked for and received funding for a recliner chair in July 2023. Given the Appellant had been provided with a crisis supplement for a recliner chair in July 2023, the panel finds that the Ministry reasonably determined that the Appellant's need at the time of the second request for a recliner chair in June 2024 was not "unexpected", as it was not a surprise at that time to the Appellant that he needed a recliner chair. He had asked for one a year ago and the Ministry had given him the funds to buy one.

*As to Whether the Appellant is Unable to Meet the Expense Because there are No Resources Available*

In the Decision, the Ministry said it was satisfied that the Appellant does not have the funds to purchase a recliner chair, so this criterion is not at issue in the appeal.

*As to Whether Failure to Meet the Expense Will Result in Imminent Danger to the Physical Health of the Appellant*

Section 57(1)(b) of the Regulation says that the Ministry may provide a crisis supplement to a family unit that is eligible for disability assistance if the Ministry considers that failure to provide the item will result in "*imminent danger to the physical health of any person in the family unit*".

The Appellant has submitted that failure to obtain a recliner chair will result in imminent danger to his health, and has provided two notes from his doctor. Those two notes confirm the Appellant's physical disability (varicose veins), and the Second Note says "*(The Appellant) would benefit from a reclining chair to help with circulation*". In its Reconsideration Decision, the Ministry says, "*there is no evidence to indicate your physical health is currently in urgent danger without a recliner or that it would become worse*". The panel notes that a medical opinion saying that something might benefit a patient does not suggest that the

patient's physical health is in imminent danger if that item is not provided. Therefore, the panel finds that the Ministry reasonably determined that the Appellant's medical practitioner has not indicated that the Appellant's physical health is in danger if he doesn't receive a recliner chair.

**Conclusion**

The Panel finds that the Ministry's Reconsideration Decision, which determined that the Appellant did not qualify for the crisis supplement, was a reasonable application of the legislation in the Appellant's circumstances.

The Decision is confirmed, and the Appellant's appeal is not successful.

The panel sympathizes with the Appellant in this case. It is indeed unfortunate that the Appellant did not acquire an adequate set of table and chair to assist him with his physical impairment when he first bought those items in February 2023. In addition, the July 2023 crisis supplement approval was for a recliner chair, which the Appellant did not use for that purpose.



## **Schedule of Legislation**

### **EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT**

#### **Disability assistance and supplements**

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

### **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 disability assistance ... if

(a) the family unit or 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

(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 ...

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made ...

APPEAL NUMBER 2024-0286

**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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2024/08/12

Print Name

David Handelman

Signature of Member

Date (Year/Month/Day)

2024/08/12

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2024/08/13