

Appeal Number 2025-0128

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision dated March 28, 2025, which found that the Appellant was not eligible for a Housing Stability Supplement (the “Supplement”) under Section 77.7 of the Employment and Assistance Regulation to maintain her rented accommodation while in treatment at a special care facility.

The Ministry was satisfied that the Appellant was eligible for income assistance. However, at the time of the original decision for which reconsideration was requested, the Ministry found that the Appellant was not receiving accommodation and care in a special care facility or a private hospital, nor had she been admitted to a hospital for extended care, as required under the Employment and Assistance Regulation.

Part D – Relevant Legislation

Employment and Assistance Act (the “Act”), Section 4 and Section 22(4)

Employment and Assistance Regulation (the “Regulation”), Sections 1(1), 1(3), 77.6, and 77.7(1), and Schedule A, Section 8

Community Care and Assisted Living Act, Section 1

Residential Care Regulation, Section 7, and Schedule B, Section 1

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 written hearing of this appeal took place on May 13, 2025.

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

- The Appellant is a sole recipient of income assistance;
- On January 9, 2025, the Appellant submitted a Facility/Residence Admittance, Discharge or Transfer form (the “Residence Form”). After reviewing the information in the Residence Form, the Ministry determined that the residence identified on the Residence Form (the “First Facility”) was not registered as a special care facility or a specialized adult residential care setting approved by the Ministry. In addition, no information was provided about the type of facility or residence at which the Appellant was staying, nor as to whether she had rental accommodation outside of the facility that needs to be maintained;
- On January 15, 2025, the Appellant told the Ministry she had a rented residence outside of the First Facility for which she had to maintain her rent so that she had somewhere to live when she was discharged (her “Home”). In addition, the Appellant submitted a Shelter Information form (the “Home Shelter Form”) indicating that she had moved to her Home on January 9, 2025, and that she was responsible for paying \$935.00 room and board;
- On February 18, 2025, the Appellant called the Ministry and expressed concern about how she would pay her rent at her Home while in treatment, and said that the First Facility *“was in the process of getting licensed”*. The Appellant also said that she had a child in care, but once she was discharged from treatment she planned to return to her Home in order to have her child returned to her care;
- On February 24, 2025, the Ministry confirmed that the Appellant was ineligible to receive a Supplement to maintain rental accommodation at her Home while in treatment at the First Facility because it is not a licensed care facility. The Ministry advised the Appellant of this decision and said that she could ask for reconsideration.

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

- The Appellant’s Request for Reconsideration, dated March 4, 2025, in which the Appellant said:
 - She had to abruptly leave her Home, which was in a different community from the First Facility and the Second Facility because her life was in danger *“through active addiction”*;

- There are months long waiting lists at most, if not all, of the treatment and recovery centers that are community-funded in the area in which she is receiving treatment. She was granted entry into the First Facility, for which she was grateful;
- She will complete her treatment at the First Facility on March 9, 2025, and has been accepted into a second-stage housing program at another facility (the "Second Facility");
- She continues to have her personal belongings stored at her Home, where \$900.00 in monthly rent continues to be charged despite her being in treatment and not returning in the immediate future;
- To promote success and reduce the amount of supports she will need in the long-term, she asks the Ministry to make an exception in her case by providing her with the Supplement;
- She also provided a list of the services she has received at the First Facility, which she also describes as a "*twelve-step based therapy*"; and,
- Her success in the therapy program and acceptance into the Second Facility depends on her ability to continue paying rent for her Home, so that she can keep her belongings and Home safe until she is well enough to return.
- The Home Shelter Form referred to above, signed January 14, 2025, providing information about the Appellnt's rental accommodation at her Home. The Home Shelter Form says that the Appellant is required to pay \$935.00 per month in rent at the Home address, that utilities are included, and that she moved there on January 9, 2025;
- A Shelter Information Form, dated February 28, 2025, for the Appellant's rental accommodation at the Second Facility (the "Second Shelter Information Form"). The Second Shelter Information Form says that the Appellant is required to pay \$900.00 per month in rent at this address plus an additional \$50 per month for power;
- A letter prepared by an advocate on behalf of the Appellant and dated April 9, 2025 (the "April 9 Letter"). The April 9 Letter refers to the Appellant's Request for Reconsideration and repeats some of the information included in the Request for Reconsideration as summarized above. In addition, the April 9 Letter says "*I am requesting reconsideration today based on my transfer from an unlicensed treatment facility ... to (the Second Facility), which is licensed under the Community Care and Assisted Living Act, meaning I am now defined as a "person in care" and eligible for (the Supplement)*". The April 9 Letter also says that the Appellant's shelter costs are "*\$900 monthly + \$50 power cost*";

- A Facility/Residence Admittance, Discharge or Transfer Form, signed and dated January 9, 2025 (the "First Facility Admittance Form"). The First Facility Admittance Form indicates that on January 9, 2025 the Appellant was admitted to the First Facility. The Appellant also submitted a Consent to Disclosure of Information Form authorizing the Ministry to communicate with the First Facility regarding her file.

Additional Evidence After Reconsideration

In the Notice of Appeal, dated April 9, 2025, the Appellant said that she was appealing the Ministry's Reconsideration Decision because she had been transferred from the First Facility to the Second Facility "*which is ... licensed under the Community Care and Assisted Living Act, meaning I am now defined as a "person in care" and eligible for the (Supplement)*". The Appellant also stressed again that all her and her child's personal belongings are stored at her permanent home, and "*it is essential that I keep paying rent to maintain my (Home) ... while I am in treatment, as well as having a home to return to after I am discharged*".

In the Appellant's written submission dated April 17, 2025, the Appellant provided the following additional information:

- While receiving Employment Insurance sickness benefits, the Appellant was also receiving Income Assistance, and was unaware that she was not eligible to claim both at the same time. As a result, she is now repaying the ineligible amount, which she finds very challenging;
- The Appellant was not aware the First Facility was not licenced as a special care facility, adding "*I learned this after arriving, and began searching for and applying to alternative treatment centers that would satisfy the requirement*";
- The Appellant moved into the Second Facility on March 9, 2025. During her time in treatment, including her time in treatment in the First Facility, she has been without any income. In addition, she suffered an injury which has left her with severe mobility issues; and,
- Since arriving at the First Facility, the Appellant has abstained from all drugs and alcohol and has been sober for over 100 days.

In the Ministry's written submission, dated May 7, 2025, the Ministry said that it was relying on its Reconsideration Decision for the period of time that the Appellant was at the First Facility, adding that it had determined that "*the Appellant would have been eligible for the (Supplement) beginning (in) March 2025, while residing in the (Second Facility), as the Appellant meets the definition of a specified person, and the Ministry is satisfied the Appellant has actual shelter costs to maintain in (her Home) while residing in the (Second Facility)*".

Admissibility of Additional Evidence

Section 22(4) of the *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 is included in the Notice of Appeal.

New evidence in the Ministry's written submission is the statement that the Appellant would have been eligible for the Supplement beginning in March 2025, while residing at the Second Facility, as she meets the definition of a "*specified person*", and the Ministry is satisfied that the Appellant has shelter costs to maintain in her Home while residing in the Second Facility.

New evidence provided in the Appellant's written submission was the information about the Appellant's need to repay Income Assistance benefits and the hardship that has created for her, and the information about her 100+ days of abstinence.

The Panel admits the new evidence in the Ministry's written submission and assigns it full weight because it confirms that the Ministry will be providing a Supplement to the Appellant for the months she is in residence at the Second Facility, thereby providing her with funding towards her Home shelter costs for a significant portion of the time that she is in recovery at a licensed assisted living residence.

The Panel does not admit the new evidence provided by the Appellant in her written submission because it is not "*reasonably required for a full and fair disclosure of all matters related to the decision under appeal*", which is the requirement contained in Section 22(4) of the *Act*. While the Appellant has provided evidence as to why she needs the Supplement for the period in question, the legislation does not provide for exemptions to the requirement that a treatment facility be licensed in situations where an applicant for the Supplement is dealing with financial difficulties or where treatment has so far been successful, and when a treatment facility is not licensed. As a result, this new information has no impact on the decision under appeal.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision, which determined that the Appellant was not eligible for the Supplement to maintain her Home while in treatment at the First Facility, 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 she has no source of income, and must have the funds necessary to maintain her Home while attending a residential care facility. She must maintain her Home because she has her and her child's belongings stored there and needs a place to return to after she completes treatment at the residential care facility. The requested Supplement is necessary to cover her rent for the two months (January 9, 2025 to March 8, 2025) that she was in residence at the First Facility.

Ministry's Position

The Ministry's position is that it does not have the ability to provide a Supplement for the period of time that the Appellant was at the First Facility because the First Facility does not qualify as a special care facility as defined in the legislation.

Panel Decision

Section 77.7(1) of the Regulation says that the Ministry can provide the Supplement to a family unit that is eligible for Income Assistance on account of a "*specified person*" in the family unit. The Panel notes that the Ministry has determined that the Appellant is eligible for Income Assistance, so the Ministry must also determine whether the other condition set out in Section 77.7(1) is met, that is whether the Appellant qualifies as a "*specified person*".

Section 77.6 of the Regulation say that a "*specified person*" is a person in special care, and that a "*person in special care*" is a person who receives accommodation and care in a special care facility.

Section 1(1) of the Regulation defines "*special care facility*" as a facility that is a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the Ministry.

Section 1(3) of the Regulation says that the Minister may designate a community care facility as a specialized adult residential care setting if it provides accommodation and care for adults, even if it is not licenced under the *Community Care and Assisted Living Act*. No evidence has been submitted to indicate that the Minister has designated the First Facility as a specialized adult residential care setting.

In its Reconsideration Decision, the Ministry determined that the First Facility is not a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the Ministry. In addition, the Ministry determined that the Second Facility is duly licensed as a community care facility and that the Appellant must continue to maintain her Home, and has granted the Appellant the Supplement for the time period following the date that she was admitted into the Second Facility.

Because the First Facility is not a licensed community care facility under the *Community Care and Assisted Living Act*, nor has any evidence been submitted to indicate that it is a specialized adult residential care setting approved by the Ministry, the Panel finds that the Ministry reasonably determined that the Appellant was not eligible for the Supplement for the period of time that she was at the First Facility.

The Panel sympathizes with the Appellant in this appeal. It is unfortunate that the Appellant was not aware that the First Facility was not licensed. However, the legislative criteria are clear, and the Ministry does not have the authority to provide any supplements other than those permitted under the *Act* and *Regulation*.

Conclusion

The Panel finds that the Ministry's Reconsideration Decision, which determined that the Appellant did not qualify for the 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.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE ACT

Income assistance and supplements

4 Subject to the regulations, the minister may provide ... a supplement to or for a family unit that is eligible for it.

Panels of the tribunal to conduct appeals

22(4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

EMPLOYMENT AND ASSISTANCE REGULATION

Part 1 — Interpretation

Definitions

1(1) In this regulation:

"special care facility" means a facility that is a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the minister under subsection (3) ...

(3) For the purposes of the definition of "special care facility", the minister may approve as a specialized adult residential care setting a place that provides accommodation and care for adults and for which a licence under the *Community Care and Assisted Living Act* is not required.

Division 8 — Housing Stability Supplement

Definitions

77.6 In this Division:

... **"person in special care"** means a person who

(a) receives accommodation and care in a special care facility ...

... "specified person" means
... (c) a person in special care.

Housing stability supplement

77.7(1) The minister may provide a housing stability supplement to or for a family unit that is eligible for income assistance ... on account of ... :
... (b) a specified person who is part of the family unit.

EMPLOYMENT AND ASSISTANCE REGULATION **SCHEDULE A**

People in special care or otherwise living away

8(1) In this section, "person in special care" and "specified person" have the same meanings as in section 77.6 [*definitions — housing stability supplement*] of this regulation.

(2) For a family unit that includes one or more specified persons, the amount referred to in section 28 (1) (a) [*amount of income assistance*] of this regulation is the sum of

- (a) the amount that would be calculated under this Schedule if the specified persons were not part of the family unit, and
- (b) for each specified person who is a person in special care,
 - (i) the actual cost, if any, to the person of the accommodation and care at the rate approved by the minister for the type of the facility, and
 - (ii) a comforts allowance of \$115.

(3) For certainty, this section applies in relation to a family unit that includes only one or more persons in special care and, in that case, the amount referred to in subsection (2) (a) is to be considered to be zero.

COMMUNITY CARE AND ASSISTED LIVING ACT

Part 1 — Definitions and Application of Act

Definitions

1 In this Act:

... **"assisted living residence"** means a premises or part of a premises, other than a community care facility,

- (a) in which housing, hospitality services and assisted living services are provided by or through the operator to 3 or more adults who
 - (i) are not related by blood or marriage to the operator of the premises, and
 - (ii) do not require, on a regular basis, unscheduled professional health services, or
- (b) designated by the Lieutenant Governor in Council to be an assisted living residence ...

... **"community care facility"** means a premises or part of a premises

- (a) in which a person provides care to 3 or more persons who are not related by blood or marriage to the person and includes any other premises or part of a premises that, in the opinion of the medical health officer, is used in conjunction with the community care facility for the purpose of providing care, or
- (b) designated by the Lieutenant Governor in Council to be a community care facility ...

RESIDENTIAL CARE REGULATION

Applying for a licence

7(1) A person who is 19 years old or older and is not disqualified ... may apply for a licence by submitting to a medical health officer both

- (a) an application, and
- (b) records respecting all of the matters set out in Schedule B.

RESIDENTIAL CARE REGULATION

SCHEDULE B

(Section 7 [applying for a licence])

1 An applicant for a licence must submit with the application all of the matters set out in this Schedule.

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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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2025/05/13

Print Name

Bill Farr

Signature of Member

Date (Year/Month/

Day) 2025/05/13

Print Name

Rubina Sidhu

Signature of Member

Date (Year/Month/Day)

2025/05/13