

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's reconsideration decision dated January 26, 2012 which held that the appellant is not eligible for a crisis supplement to purchase clothing under section 57 of the Employment and Assistance for Persons with Disabilities Regulation because: the need for clothing cannot be considered an unexpected expense; the appellant had alternate resources to purchase the clothes; and that failure to obtain these items will not result in imminent danger to the physical health of the appellant.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Act (EAPWDA), Section 5.

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57.

PART E – SUMMARY OF FACTS

The evidence before the ministry at reconsideration consisted of the request for reconsideration dated January 20, 2012 in which the appellant notes that he underwent treatment during the fall and winter of 2010 and gained back his lost weight. He then found that his clothes no longer fit. The appellant attended the ministry office in the spring of 2011 and was advised that he would get \$50 at that time for clothing and then another \$50 in the winter for a jacket. When he returned to the ministry office in the winter, he was denied the additional \$50. The appellant adds that he does not receive GST or HST as he has a student loan. He indicates that the mid month \$50 that he receives is used for food. He argues that he is allowed \$100 for clothes and has only received \$50.

The ministry in its reconsideration decision notes that although the legislation does provide for a crisis supplement for clothing of up to \$100 per person in 12 calendar months that all other requirements under section 57 of the EAPWDR must also be met. However, the ministry could not conclude that although the appellant gained weight while in treatment and could not fit in to his clothes when he returned in the fall, that clothes were unexpectedly needed or that a crisis supplement for clothes was required to meet an unexpected expense. Additionally, the ministry could not conclude that the appellant had no resources available to him to purchase the item on his own, or that local community resources for clothing were explored for the item. Finally, the ministry could not conclude that failure to provide the item would result in imminent danger to the appellant's physical health or that his physical safety would be in imminent danger.

The ministry was not in attendance at the hearing. After confirming that the ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

At the hearing, the appellant explained that he had contracted Hepatitis C from an infected needle while working at a hospital, and this was why he had been designated PWD. He had lost his income, his family, and his home, and had become addicted. He successfully underwent treatment at a program run by a volunteer agency, and it was during this treatment that he gained back some weight and required some new items of clothing. The appellant stated that he had been told by a ministry worker that he would be given \$50 in the Spring of 2011, and a further \$50 for a winter jacket later in the year. When he returned to the office, however, officials had a record of his visit but not of the promise made to provide the additional \$50.

The appellant also stated that the ministry provides him \$50 mid-month at his request, in order to help him with his budgeting, and that this amount goes to the purchase of food. He stated that he uses community resources as much as possible, for which he expressed gratitude.

The appellant argues that the ministry is incorrect when it says there is no "imminent danger" to his health, because Hepatitis C results in a compromised immune system. The appellant stated that the ministry is incorrect when it says that he receives a HST/GST credit, because his overdue student loan means he does not receive the credit. He said that he found it hurtful that the ministry stated these things as facts when they were not.

The panel did admit the appellant's oral testimony as it was evidence given to directly support the information and records before the ministry at reconsideration under section 22(4) of the Employment and Assistance Act.

Findings of Fact

- The appellant, subject to the regulations, is eligible for disability assistance and supplements.
- The appellant had undergone treatment in the fall and winter of 2010 during which he had lost weight.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reasonably determined that the appellant is not eligible for a crisis supplement to purchase clothes under section 57(1) of the EAPWDR because the need for clothes cannot be considered an unexpected expense; and that the appellant had alternate resources to purchase the item; and that failure to provide the item will result in imminent danger to the appellant's physical health.

Relevant Legislation**Section 5 of the EAPWDA deals with Disability assistance and supplements and states:**

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.

Section 57 of the EAPWDR deals with Crisis Supplements and states:

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 \$20 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 maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;
- (c) if for clothing, the amount that may be provided must not exceed the smaller of
 - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
 - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

The ministry argues that the appellant did not meet the legislated requirements of section 57 of the EAPWDR because; the need for the item was not unexpected and the need for clothes cannot be considered an unexpected expense, the appellant had alternate resources to purchase the item and that failure to provide the item would result in imminent danger to the appellant's physical health.

The appellant argues that he was promised an additional \$50 later in the year by the ministry worker to purchase a winter jacket. Without receiving that money; he was not able to obtain the required item which was in fact dangerous to his health because of his medical condition. Also, the appellant found that the ministry was incorrect when it indicated he had alternate resources because of a return of HST and GST to which he was not entitled, due to his student loan.

With regard to the first criterion, the panel finds that the need for winter clothing did not come unexpectedly or without notice, as the appellant had several months between when he received \$50 for spring clothing and his request for an additional \$50 for a winter jacket. Therefore, the panel finds that the ministry reasonably determined that the need for a winter jacket cannot be considered an unexpected expense pursuant to section 57(1)(a) of the EAPWDR.

With regard to the second criterion, the panel finds that the evidence does indicate that the appellant did not have alternate resources from a refund of GST and/or HST due to his outstanding student loan and that he does make use of community resources as much as possible. Therefore, the panel finds that the ministry was not reasonable to conclude that there are resources available to the family unit based on those reasons pursuant to section 57(1)(a) of the EAPWDR.

With regard to the third criterion, the panel acknowledges that the appellant has a compromised immune system however, there was no medical evidence presented to indicate that failure to meet the expense or obtain the winter jacket would result in imminent danger to the physical health of the appellant. Therefore, the panel finds that the ministry reasonably determined that the appellant did not meet the legislated requirement pursuant to section 57(1)(b) of the EAPWDR.

In applying the legislation to the facts of the case, the panel finds that the ministry reasonably determined that the appellant does not meet all the legislative criteria for receiving a crisis supplement and confirms the ministry decision.