

PART C – Decision under Appeal

The issue under appeal is the ministry's reconsideration decision dated February 13, 2012 that denied the appellant's request for a crisis supplement with which to purchase winter boots under s. 59 of the Employment and Assistance Regulation (EAR). The ministry's reconsideration decision states that the appellant failed to show that his need for winter boots was unexpected; that failure to obtain the item would result in imminent danger to the health of the appellant and that there are no alternate resources with which to purchase boots.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), s. 59

PART E – Summary of Facts

The evidence before the panel is contained in the appeal record and statements given at the hearing by the appellant, appellant's advocate and the ministry.

The ministry, in the reconsideration decision, writes that on January 19, 2012 the appellant "requested a crisis supplement to purchase winter boots". The ministry records that the appellant "confirmed there were no unusual circumstances resulting with the need for winter boots to be unexpected". The appellant was denied a crisis supplement.

The ministry, in the reconsideration decision, records that on February 7, 2012 the appellant "requested a crisis supplement to purchase winter clothing based on an unexpected need and health and safety reasons". The ministry states that the appellant said that he "made due with inadequate winter clothing while residing with a friend and stayed inside to keep warm. Unexpectedly you were requested to leave the residence. You are now homeless and do not have adequate clothing for the winter weather".

The ministry states that the appellant's need for winter clothing "cannot be considered an unexpected expense" as the appellant was aware he needed winter clothing while he was living at his last residence. The ministry writes "there is no evidence to support failure to obtain winter clothing will result in imminent danger to your health". The ministry states that the appellant had money in his support allowance to purchase winter clothing.

The appellant states that unexpectedly he was asked to leave the residence at which he had been staying. He states that there was no notice; the owner said he was leaving for a period of time and no-one was staying there while he was gone. The appellant states he has had frostbite recently and there are still dark patches on some areas of his feet. He states he has respiratory and chest problems for which he has recently received treatment through the local hospital. He states this treatment is ongoing. He and his advocate state that there is no winter clothing available at either of the second hand stores in his area. The appellant's advocate also said that the appellant's home community has a waiting list for housing which means there is little chance there is accommodation available for him there. The appellant's advocate wrote the appellant "is unexpectedly exposed to outdoor elements for much of the day and night. He could not have planned for the sudden change and exposure to the cold and could not have been reasonably expected to save for an unexpected event".

A note dated February 24/12 from a doctor regarding the appellant's circumstances states that the appellant was "kicked out of his house" as he has a drinking problem and he broke a window. The doctor states with regard to the appellant that "in order to maintain his current state of affairs he wants warm clothes to stay outside". The doctor does not comment on the appellant's medical condition or the appellant's ability to withstand the rigors of living outside in winter in this area.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry reasonably denied the appellant a crisis supplement to pay for a pair of winter boots because the appellant did not meet the legislative requirements of EAR, s. 59 as the need for winter boots was not an unexpected expense, failure to acquire winter boots would not result in a direct, imminent or immediate danger to the appellant's health and the appellant had alternate resources with which to pay for winter boots.

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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.
- (5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).
- (6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.
- (7) Despite subsection (4) (b) or (5) or both, 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.

[am. B.C. Reg. 12/2003.]

The ministry's position is that the appellant has not met all the requirements to be issued a crisis supplement for winter boots. The appellant's need for winter boots was not an unexpected event. The ministry states that appellant received a support allowance which, in part, is intended to provide for the appellant's clothes. The ministry states that the appellant has not presented any evidence that the failure to obtain winter boots will place him in imminent danger. The ministry states that the appellant had an alternate resource, his support allowance, with which to purchase winter boots, but the appellant did not use this money for that purpose.

The appellant's position is that he was living in the home of an acquaintance. He stated he was expecting to be inside for the winter and he did not think he would need new winter boots. Without being given notice the appellant had to leave this home. According to the appellant, the

acquaintance was leaving town and did not want anyone in the house. He stated that his only pair of shoes was not going to stand up to the kind of winter outdoor use for which he would need them.

Pursuant to EAR 59(1)(a) the panel finds that the appellant's need for winter boots was unexpected. The panel accepts the appellant's position that he had made arrangements for his accommodation for the winter and when he unexpectedly lost his accommodation his need for winter boots became critical. The panel also finds that there are no resources available to the appellant in the community, through his family, friends or Aboriginal Services to provide the appellant with winter boots at this time.

Pursuant to EAR 59(1)(b)(i) the ministry found that the health of the appellant was not in imminent danger as a result of having inadequate winter footwear. The panel looks to the doctor's note dated February 2, 2012 in which he states in reference to the appellant's situation that he (the appellant) "wants warm clothes to stay outside". The doctor provides no opinion regarding the appellant's medical condition or whether the appellant was running an undue risk to his health if he were to sleep outside at that time of the year. The panel finds the doctor's note credible and it is therefore given considerable weight regarding the appellant's situation and medical condition at the time the note was dated.

The panel finds that the decision of the ministry was reasonably support by the evidence and therefore confirms the decision of the ministry pursuant to Section 24 (2)(a) of the EAA.