

**PART C – DECISION UNDER APPEAL**

(State the reconsideration decision)

The issue under appeal is the ministry's reconsideration decision of February 24, 2012 which determined that the Appellant was not eligible for a crisis supplement for clothing under s. 57(1) of the EAPWDR because the Ministry found that the need for clothing was not an unexpected expense nor an unexpected item of need, resources were available to the Appellant, and failure to meet the expense or provide the item would not result in imminent danger to the Appellant's physical health.

**PART D – RELEVANT LEGISLATION**

(State the relevant Legislation considered)

*Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57.*

*Employment and Assistance Act (EAA) Section 22(4).*

*Employment and Assistance Regulation (EAR) Section 86.*

**PART E – SUMMARY OF FACTS**

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 EAR.

The evidence before the Ministry on reconsideration was:

- Request for Reconsideration dated February 15, 2012

At the Hearing the Appellant stated that:

- Stomach and abdominal injuries sustained several years ago and effects of subsequent corrective surgery affect the Appellant's digestive capabilities.
- He purchased approximately 12 -15 pairs of jeans per year; and paid approximately \$2 – 5 per pair.
- He did not know to keep his receipts for purchase of his pants.
- He is unable to work to supplement his disability income.
- He wears and is supplied with Depends by the Ministry.

The Panel admitted the Appellant's oral evidence under section 22(4) of the EAA as evidence in support of the information and records that were before the minister when the decision under appeal was made. The Panel did not admit any additional evidence.

The Panel finds that:

- The Appellant is a family unit and has been in receipt of disability assistance for a single person since approximately 2003.
- In January of 2011, the Appellant received a \$100 clothing supplement.

The Appellant requested a yearly clothing allowance in mid-January, 2012. The ministry determined that the Appellant was not eligible for a yearly allowance as he did not reside in a long term care facility. His request was then processed as a crisis supplement.

**PART F – REASONS FOR PANEL DECISION**

(State the reasons for the panel decision)

The issue to be decided is the reasonableness of the Ministry's reconsideration decision that the Appellant was not eligible for a crisis supplement for clothing under section 57 of the EAPWDR.

Section 57 of the *EAPWDR* provides:

**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 \$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 disability 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. 13/2003.]

The Appellant argues that the combined effect of injuries sustained in years past and consequent corrective surgery have resulted in his stomach and digestive track being significantly reduced in size. As a result of his reduced stomach and digestive capacity, food ingested does not typically remain in his stomach but rather is flushed through and out of his system without any significant warning. The Appellant further argues that due to his medical condition, the expulsion of bowel matter tends to soil his pants on a regular basis. He notes that he is careful with his pants and although he regularly washes his pants he is still required to replace them frequently.

The Appellant argues that his support allowance is not sufficient to cover the costs of the multiple pairs of second hand pants it is necessary for him to purchase on an annual basis, notwithstanding that he relies on the second hand stores and where possible free clothing. The Appellant notes that he is diligent in the washing of his soiled pants, however because the pants are second hand and often fairly worn the frequency of the soiling and washing results in the pants deteriorating quite quickly.

The Appellant notes that he often uses Depends, however the bowel matter still leaks out from the Depends

and still soils his pants.

The Appellant explains that he did not realize that the monies he received last year for clothing were categorized as a crisis supplement

The Ministry argues that section 57(1) of the EAPWDR sets out three distinct criteria required to be established before the Ministry exercises its discretion whether or not to provide a crisis supplement to a family unit. The Ministry goes on to argue that the Appellant did not meet this tri-criteria threshold.

Firstly, the Ministry argues that the conditional existence of either one of 2 scenarios described in paragraph 57(1)(a) must exist in order to establish the first criteria. In the Appellant's instance, the Ministry argues that neither of the two scenarios exists; that is, the Appellant's request for a crisis supplement for monies for clothing was (i) not an unexpected expense, nor (ii) was it unexpectedly needed. The Ministry found that as the Appellant is expected to keep himself clothed, his need for clothing cannot be considered unexpected. Further the Ministry notes that there was no indication that an unexpected life situation had prompted the need for new clothing, as he was faced with this very same issue a year prior.

Secondly, the Ministry notes that the same paragraph (a) sets out a second criterion, namely that there are no financial resources available to the Appellant to obtain the items for which the supplement is requested. The Ministry is not satisfied that the Appellant was without resources to obtain the clothing that he required. The Ministry argues that a portion of the monthly disability allowance received by the Appellant is designated as support funds from which he is expected to purchase or replace clothing items that he needs. The Ministry further notes that there is no indication that the Appellant has accessed any of the second hand or free stores for his clothing needs.

Lastly, the Ministry argues that the third requisite criterion set out in s.57(1)(b), was not established as failure to provide the requested crisis supplement will not result in either (i) imminent danger to the physical health of the Appellant or (ii) removal of a child under the *Child, Family and Community Service Act*.

The Panel finds that the request for monies for clothing is a prior, ongoing expense and thus as there was no evidence before the Ministry to establish the first criteria set out in section 57(1)(a), namely, that the need for clothing was an unexpected expense or item, the Ministry's decision was reasonable in this instance.

The Panel finds that although the Appellant utilized second hand and free clothing sources to obtain and purchase his pants, he was in receipt of monthly support funds, thus the Appellant is unable to establish the second criteria set out in section 57(1)(a), namely, that no resources are available for the Appellant to purchase clothing; accordingly, the Ministry's decision was reasonable in this instance.

The Panel further finds that as the Appellant has a place to live, receives disability assistance for support, including clothing and food, and shelter and does not have custody of any children, there was no evidence before the Ministry to establish the necessary third criterion set out in section 57(1)(b), namely, the existence of imminent danger to the Appellant's physical health or the legislated removal of a child, thus the Ministry's decision was again reasonable in this instance.

In conclusion, the panel finds that the Ministry's reconsideration decision to deny the Appellant's request for a crisis supplement for clothing was reasonably supported by the evidence. The Panel therefore confirms the Ministry's decision under sections 24 (1)(a) and 24(2)(a) of the *Employment and Assistance Act*.