

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision, dated February 8, 2012, that denied the Appellant a crisis supplement for clothing. The Ministry determined that the Appellant was not eligible for a crisis supplement, under Section 57 EAPWDR because it had not been established that the boots and a coat were unexpected items of need; that it had not been established that the Appellant did not have the resources available to meet the need and because the Appellant did not demonstrate that his physical safety was in imminent danger because he was denied supplementary funds to purchase winter boots and a coat.

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 Appellant requested a crisis supplement on January 16, 2012 and his request was denied. He applied for Reconsideration on February 04, 2012.

The evidence before the Ministry at reconsideration consisted of the Request for Reconsideration in which the Appellant states "I am not able to find boots in my size, in good condition. I have to walk to access services and need good, warm boots. Also I am prone to Athlete's foot and need new, clean footwear".

The Appellant submitted a Notice of Appeal on February 16, 2012 in which he states: "I disagree because I (once, along with ... outreach worker) explored all community resources over and over again, even leaving a phone number with them in case a clean pair of boots and coat comes in. With no success. I am still in need of these two items. I believe without clean boots (to prevent painful athletes foot again, that recently occurred) and a warm coat could put me at risk of falling and therefore progressing my disability. Not being able to attend my appointments and get to access services would not be good for my well being. P.S. My snowboots are second hand and the soles rapidly wore out and I cannot afford to buy new boots or a coat on my current income."

The Appellant submitted, with his Notice of Appeal a newspaper clipping from the local newspaper with an article titled "Homeless Shelters ask for help as temperatures plummet". The panel admitted the Appellant's written testimony and the newspaper clipping, on the subject of the effect of cold winter temperatures on the homeless, as evidence that is in support of the information and records that were before the Ministry at the time of reconsideration.

The panel makes the following findings of fact: The Appellant is a recipient of benefits under the EAPWDA and is eligible for a crisis supplement for clothing if he meets the criteria set out in section 57 of the EAPWDR. The Appellant applied for a crisis supplement on January 16, 2012 to purchase winter boots and a coat.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision was reasonably supported by the evidence and whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement. The Ministry determined that the Appellant was not eligible for a crisis supplement because it had not been established that the boots and a coat were unexpected items of need; that it had not been established that the Appellant did not have the resources available to meet the need and because the Appellant did not demonstrate that his physical safety was in imminent danger because he was denied supplementary funds to purchase winter boots and a coat.

The relevant legislation is section 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA) and Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as follows:

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.

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.

The Ministry addressed the criteria in Section 57(1)(a) as follows: "the minister cannot conclude the requested crisis supplement for clothes is required to meet an unexpected expense or to obtain an item that is unexpectedly needed. You indicate that you cannot find boots in your size that are in good condition, and that you walk to access services. The minister notes that recognizing both your need for unique boots sizes and the need to walk to access services indicates that your clothing need is predictable. As such, it cannot be established that boots and a coat are unexpected items of need.

The Appellant stated, in the Notice of Appeal: "My snow boots are second hand and the soles rapidly wore out".

The panel noted that the Appellant did not provide any further information about when he obtained his current boots, when the soles wore out and why he suddenly needed a winter coat in January. Given that the Appellant provided no further evidence to establish that the need was unexpected or that a crisis supplement was needed for items that were unexpectedly needed the panel finds that the Ministry's decision, that the Appellant's need was predictable, is a reasonable application of the legislation.

With respect to the additional criteria in Section 57(1)(a), that the Appellant must be "unable to meet the expense or obtain the item because there are no resources available to the family unit" the Ministry stated, "The Minister cannot conclude that you have no resources available to purchase boots and a coat on your own. You have not demonstrated that you have explored your local community resources in order to obtain winter boots and a coat. In this, it cannot be established that you do not have the resources available to meet your need"

The Appellant stated that he cannot afford to buy new boots or a coat on his current income. He said that he explored all community resources and on one occasion an outreach worker accompanied him. He said that he also left a "phone number with them in case a clean pair of boots and a coat comes in. With no success."

The panel noted that the Appellant did not specify the community resources that he explored in order to obtain boots and a coat; nor did he provide information on when and how often he approached the various agencies in his community. He said that an outreach worker accompanied him on one occasion but he did not submit a statement from that outreach worker to support that allegation.

The newspaper clipping, submitted by the Appellant, deals with the effect of the cold winter temperatures on the homeless. While the newspaper articles states that the local homeless shelters were experiencing a shortage of donated winter clothing there are no other local agencies named and there is no specific reference to the Appellant or to a person in the Appellant's position.

The panel concludes that there is insufficient information to show that there were no resources available to the Appellant and finds that the Ministry reasonably determined that it could not be established that the Appellant did not have the resources available to meet his need.

With respect to the criterion, in Section 57(1)(b), that the failure to provide the item will result in imminent danger to physical health the Ministry acknowledged the Appellant's allegation of a propensity to athlete's foot and said that the Appellant did not demonstrate that his physical safety would be in imminent danger if he does not receive supplementary funds to purchase winter boots and a coat.

The Appellant said that he has experienced painful athletes foot and that he is at risk of falling and therefore progressing his disability. He said that not being able to attend appointments and access services would not be good for his well being.

The panel notes that the Appellant did not submit evidence from a medical professional to support his position and the panel finds that there is a insufficient evidence that the failure to meet the expense or obtain the item will result in imminent danger to the physical health of the Appellant. The panel therefore finds that the Ministry decision, that the Appellant did not meet the criteria in Section 57(1)(b), is a reasonable application of the legislation.

The panel finds that the Ministry reasonably determined that the Appellant is not eligible for a crisis supplement for clothing under Section 57 of the EAPWDR and further finds that the denial of a crisis supplement for clothing is a reasonable application of the law.

Therefore, the Panel confirms the ministry's decision pursuant to Section 24(1)(a) and Section 24(2)(a) of the Employment and Assistance Act.