

**PART C – Decision under Appeal**

The Decision under appeal is the Ministry's Reconsideration Decision, dated April 17, 2012, which denied the Appellant a crisis supplement to buy clothing. The Ministry determined that the Appellant was not eligible for a crisis supplement under sec. 59 of the EAR as the clothing was not an unexpected item or expense, there were alternative resources available and there was no evidence of imminent or immediate danger to his health if he did not get the clothing.

**PART D – Relevant Legislation**

EAR            Employment and Assistance Regulation – Sec 59

## PART E – Summary of Facts

The evidence before the ministry at reconsideration was as follows:

- 1- A 3 page document entitled "Employment and Assistance Request for Reconsideration" with an effective date of Apr 1, 2012. This document stated that the appellant did not meet the legislated criteria for a supplement for clothing as there was no evidence to support the items being unexpected item(s) or that there was an unexpected or unforeseen circumstance that caused the need for clothing. The form states that the appellant's reasons for a crisis supplement for clothing were: 1) he was 6'4" and 240 pounds; 2) he was not getting enough money from MSD; and 3) he was not getting a diet allowance. The document states, "Reasons (1) and (2) are not unexpected circumstances. It was confirmed that you ARE receiving a diet in the". (This last sentence is incomplete on this document.)
- 2- Another "Employment and Assistance Request for Reconsideration," undated, containing the same information as document 1 above. This document notes that "It has been confirmed that you ARE receiving a diet allowance in the amount of \$40." This document also includes a copy of section 4 of the EAA and section 59 of the EAAR. It notes that attached is a reconsideration brochure, a written request for clothing and an ICM decision report.
- 3- A 1 page document entitled "Client Request Checklist for TPA provider" which requests a pair of blue jeans, some underwear, and socks. In relation to unforeseen/unexpected circumstances preventing the client from meeting his need, the document states the client doesn't get enough funds from MSD to buy clothing, he is a 6.4' person at 270 pounds, and states the client is not getting his diet allowance anymore. The form notes "N/A" in regard to imminent danger to physical health and also notes the Salvation Army in relation to available resources the client has accessed.
- 4- A 1 page document entitled "Decision Report" dated April 3, 2012 which notes the family unit is not eligible for a crisis supplement under the Employment and Persons with Disability Regulations section 57 or section 59 of the Employment Act Regulations.
- 5- A 3 page "Employment and Assistance Request for Reconsideration", signed by the appellant on April 4, 2012, asking for reconsideration, stating that he needed pants, socks and underwear. He currently was borrowing his roommates' pants, as he has none, and he needed socks for varicose veins. He does not work due to health problems; he is honest and does not use his IA for illegitimate means. It also states than the appellant made this request two months earlier and was going to appeal but he was told March 15 he was all right.

The reconsideration decision, dated April 17, 2012, noted that the appellant was a single recipient of IA receiving monthly \$375 for shelter, \$282.92 in support and \$40 in diet allowance. The decision states that to qualify for a crisis supplement the appellant must first meet all three criteria in Sec. 59(1). First, an unexpected expense or an item unexpectedly needed. Second, no resources available to the appellant. Thirdly, failing to provide the item would result in imminent danger to the physical health of the appellant.

In relation to an unexpected expense, or obtaining an item unexpectedly needed, the ministry found that a person's need for clothing could not be an unexpected expense or an item unexpectedly needed as the appellant was expected to keep himself clothed. There was no indication an

unexpected situation had prompted the need for new clothing. Also, the ministry noted monthly support funds are provided and parts of those funds are provided for clothing.

In relation to resources available to the appellant, the ministry noted that the appellant had accessed the Salvation Army for clothing but went on to say that even though this may be true, the appellant was receiving a monthly support allowance. Again, it was the appellant's responsibility to use part of those funds for clothing. In relation to the appellant's position he does not get enough money for IA, and he is not getting the diet allowance anymore, the ministry noted the appellant was receiving the eligible amount of IA based on the legislated criteria and that the ministry found he was still receiving his diet allowance.

In relation to imminent danger to the appellant's physical health resulting from failing to provide the clothing, the decision quoted from the dictionary definitions of imminent and danger. They found that there was no evidence to show that failing to provide the crisis supplement for clothing would result in imminent danger to the appellant.

As a result, the ministry denied the reconsideration application.

The Appellant gave evidence at the hearing over the telephone. He had broken his back about 18 months ago and could not work. He moved to a different city at the end of 2011 to obtain assistance from a family member who is a nurse. He had to move back to the lower mainland as the family member lived in an area that made getting about very difficult. He is concerned that the ministry has something personal against him. He has been given a crisis grant two previous times without problems. He is currently awaiting another ministry decision.

When he moved back to the lower mainland he took the bus with a number of boxes containing his belongings. When he opened the boxes after moving, he was missing clothing and believes it was perhaps stolen or lost. This is why he needed clothing. He had tried various outlets such as charitable places and second hand stores but could not find the clothing because he is 6'4" and 270 pounds. He can't find any clothes at these places that fit him. He initially applied for the clothing in when he moved back down and was told he could not apply until March 15 as he had previously received a crisis supplement within the year. As such, he applied again after March 15.

The appellant's evidence that he had lost or had his clothing was new evidence before the tribunal. The tribunal should not admit additional evidence unless it's determined that it is supporting evidence, being evidence that is "in support of" the information and records that were before the minister at reconsideration as per section 22(4)(b) of the *Employment and Assistance Act*. The ministry argued that the evidence regarding the bus incident should not be relied on as they had not had an opportunity to test this information, such as asking for a police file number or a report made to the bus company.

The panel has determined that this additional evidence is generally consistent with the evidence taken in the record of the ministry decision, and as such, the evidence should be admitted. The appellant initially stated in his appeal that he had applied two months earlier, shortly after the event, but had been told to wait. This evidence merely flushes out the events that occurred that caused him

to initially approach the ministry for the crisis grant and explains why it is he did not have the clothing items.

At the hearing the Ministry argued the Appellant was not eligible for a crisis supplement under sec. 59 of the EAR as this was not an unexpected expense, there was no evidence of imminent or immediate danger to his health, and alternative resources were available to him.

Regarding an unexpected expense or unexpected item the ministry decision was based on the evidence that there was no such unexpected event here. The ministry agreed situations such as a theft could meet these situations. The ministry's position was the new evidence on the bus incident should not be admitted and in this case there was no such unexpected expense or need.

In relation to other resources the ministry stated that other available resource usually means trying things like second hand stores or charitable organizations. They did not understand the reasoning in the reconsideration decision relating to the Salvation Army and the appellant having to budget for clothing from his IA. They agreed that based on the evidence of the appellant that he had tried other resources and could not find clothing for this size that the ministry could not say there were other resources available.

In relation to the third ground, immediate or imminent danger to the appellant's health, the ministry reiterated there was no evidence of this to support the appellant's application.

## PART F – Reasons for Panel Decision

The issue to be determined is whether the Ministry reasonably determined the Appellant was not eligible for the crisis supplement to purchase clothing.

**EMPLOYMENT AND ASSISTANCE REGULATION****Crisis supplement**

S 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 issue is whether the Ministry reasonably determined the Appellant was not entitled to the crisis supplement as per sec. 59(1). The section states the minister may provide a crisis supplement to an eligible person on IA, if the person requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed, is unable to meet the expense or obtain the item because there are no resources available to the family unit, and the minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the person.

There is no question the Appellant is eligible to claim the supplement as he is currently a single recipient on IA. The ministry states the Appellant has not shown this is an unexpected expense, the item is not unexpectedly needed and there is no evidence of imminent danger to the physical health of the Appellant. The Appellant believes he qualifies for the crisis supplement.

In relation to whether there are other resources available to the Appellant to purchase the item, and as conceded at the appeal by the ministry, it is clear on the evidence that there are no other resources available to the appellant to purchase these items. The panel finds the ministry was not reasonable in finding the Appellant had other resources to pay for the items. There was no evidence before the minister of other resources being available to help the appellant purchase the items. This portion of the decision is unreasonable and the panel so finds.

In relation to unexpected item or expense, as the appellant fleshed out in his evidence, his clothing was either lost or stolen when he moved. This is clearly an unexpected expense. The appellant is currently borrowing pants from a roommate. As conceded by the ministry, this is the type of event that falls in the unexpected category. As the panel has found this evidence is admissible at the hearing this establishes that it is an unexpected situation. As such, the panel determines that the ministry's finding on this criterion was unreasonable.

In relation to imminent danger, there is no evidence in this matter that there is imminent danger to the physical health of the Appellant. For example, the need of a winter coat in frigid temperatures. There is no evidence about this matter affecting the physical health of the appellant. It is understandable that this matter may not be comfortable and would be difficult for the appellant, but there is no evidence showing imminent danger to the physical health of the appellant. As such, the panel has determined this finding by the ministry was reasonable.

As the panel finds that the Ministry's decision was reasonable in relation to the requirement under sec. 59 of imminent danger to physical health of the appellant, the panel finds that the Ministry's Reconsideration Decision was reasonably supported by the evidence and is a reasonable application of the legislation based on the circumstances of the Appellant. As such, the Reconsideration Decision is confirmed. The Appellant is not successful in his appeal.