

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the ministry) reconsideration decision of October 16, 2012 in which the appellant was denied a crisis supplement for new clothing. The appellant was not eligible to receive a crisis supplement as the expense was not unexpected, there were resources available for clothing costs and there was no imminent danger to the physical health of the appellant as required under the Employment and Assistance for Persons with Disabilities Regulation, section 57 (1).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation Section 57 (1). (EAPWDR)

PART E – Summary of Facts

The information before the Ministry at the time of reconsideration was:

- An Employment and Assistance for Persons with Disabilities Request for Reconsideration dated September 25, 2012, which includes a 2 page handwritten explanation by the appellant, explaining her need for the crisis supplement
- Receipts from Wal Mart, Shoppers Drug Mart and Zellers documenting the medical expenses the appellant has incurred.

The appellant attended the hearing accompanied by her son who was to be a witness. The son was asked to remain in the lobby until the panel had heard testimony from the appellant.

The appellant provided the panel with documentation she had received by mail which pertained to another appeal. The appellant was confused about what issue we were convened to address. The appellant thought we were convened to hear the appeal about her medical expenses but after the chair explained the reason for the hearing, which is the denial of a crisis supplement for clothing the appellant was satisfied to proceed with the hearing.

The appellant stated that she has been hospitalized for serious medical conditions for several months. During the time she was hospitalized and underwent surgery, she lost 40 pounds. She is scheduled to have more surgery and is now not able to walk since her discharge from hospital. She states that she does not have any clothing that fits her and winter is coming and her clothing is not appropriate for the weather. The appellant states that she does not have any money for clothing as her husband is unemployed, she has required medical equipment to help her with her recovery after the last hospital discharge and her husband had to borrow the money to purchase these items. The receipts for these items were included in the case file. The appellant states that she has only once asked the ministry for a crisis allowance and that was in 2008. She stated that she was under the understanding that she could request a crisis allowance once or twice a year. The appellant feels her situation is desperate and requests that the ministry decision be reversed.

The appellant's son was asked to join the hearing and to provide his testimony. He stated that his mother has indeed lost a large amount of weight and that she is unable to walk more than 1 or 2 steps since her last surgery. He states that his mother does not have any clothing which fits her at this time.

The ministry states that the appellant is currently receiving disability assistance as a two person family unit and she has a Person with Disability status. The ministry states that the appellant's weight loss was not unexpected, she had available resources in her monthly disability assistance and that the appellant's health was not in imminent danger.

The ministry representative commented that the ministry office is familiar with the appellant and recognizes that there has been a substantial change in the appellant over the past few months and she has lost a large amount of weight. The ministry commented that the appellant requested the crisis allowance over the phone and was also denied over the phone without the adjudicator being able to see how the appellant has deteriorated. The ministry representative also stated that he felt the adjudicator's decision was a very strict interpretation of the legislation.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision to deny the appellant a crisis supplement for clothing was a reasonable application of the legislation or reasonably supported by the evidence.

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES AREGULATION**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.

The appellant's position is that she is extremely ill, and has numerous surgeries the latest of which has resulted in a loss of weight causing her to lose 40 pounds and her confinement to a wheelchair. She now weighs only 100 pounds down from 140 pounds. The appellant says she does not have money to go to the salvation army for clothes because her unemployed husband has had to borrow money to pay for medical equipment which she requires after her surgery. The appellant states she requires some warm clothing for winter such as warm fleece bottoms and tops.

The ministry position is that the appellant's weight loss was not unexpected, she is provided with a disability assistance every month, part of which is meant to provide clothing, and that the failure to obtain clothing will not result in imminent danger to her physical health.

The panel finds that the appellant presents as a wheelchair bound very thin and ill looking woman. In order for the appellant to meet the criteria set out in the legislation EAPWDR Section 57(1), she must meet all three of the following criteria.

- The first criterion is the need for the item to be unexpected or the expense must be unexpected. The panel finds that the appellant had no way of knowing that her hospitalization would result in a weight loss of 40 pounds. The panel finds that the weight loss was unexpected and therefore the expense for new clothing would also be unexpected.
- The second criterion is there must be no alternate resources available for the expense. The panel finds that the appellant has demonstrated by providing receipts for medical equipment expenses that the family unit has no extra funds to purchase new clothing for her following her weight loss. These receipts were before the ministry at the time of reconsideration. In its reconsideration decision, the ministry refers to the monthly clothing allowance which the appellant receives; the panel notes that there is no such allowance as a monthly clothing allowance, as confirmed with the attending ministry representative. The panel finds then that there are no available resources for the purchase of clothing to fit the appellant at her new size.
- The third criterion is that failure to obtain the item or meet the expense will result in imminent danger to health. The panel finds that the appellant is a thin frail very ill woman who was not clothed for the winter weather. The appellant must attend hospital and physician appointments and requires warm clothing that fits to go out in the winter months. It is the opinion of the panel that failure to provide warm clothing for the appellant would result in imminent danger to her health.

The panel finds that the ministry decision to deny the appellant a crisis allowance for some new clothes was not a reasonable application of the legislation.
The panel rescinds the ministry decision.