

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the ministry's) reconsideration decision of September 14, 2012 in which the ministry denied the appellant's request for a crisis allowance for clothing because the ministry determined that the appellant had not met the following requirements of Section 57 (1)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

- that the supplement was required to meet an unexpected expense or to obtain an item unexpectedly and
- that the appellant was unable to meet the expense or obtain the item because there were no resources available to the family unit.

PART D – Relevant Legislation

Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)

PART E – Summary of Facts

The appellant was not in attendance at the teleconference hearing. After confirming that the appellant was notified, the hearing proceeded under EAR section 86 (b).

The appellant's advocate was in attendance. The appellant had filled out and signed a Release of Information form on October 15, 2012, granting the appellant's advocate permission to attend the hearing as his representative but not to make decisions on behalf of the appellant.

The evidence includes:

- An overdue notice to the appellant dated August 16, 2012 from ICBC regarding payment of \$144 for violations involving consuming liquor in a public place and failure to wear a bicycle helmet.
- The appellant's September 7, 2012 statement in his Reason for Request for Reconsideration that he owed debts for rent and other expenses, that he was "kick[ed] out" of the shelter because "of workers thinking he was drunk and stoned." He states that he has a mental illness and that after being ejected from the shelter he had to sleep outside. He states he "had no clothes or sleeping gear." He adds that he recently finished treatment for drug addiction and is "really stressed out" but is trying to pay his bills.
- An estimate dated September 13, 2012 for dental work to be done for the appellant involving \$175 to be paid by the appellant.
- The ministry's reconsideration decision of September 14, 2012 stating that
 - the ministry's notes on file indicate that the appellant's clothes were stolen and that the appellant's landlord is keeping his belongings because the appellant did not pay his room and board.
 - there is no evidence the appellant filed a police report regarding the stolen clothes or contacted the Residential Tenancy Branch, though he was told to do both by the ministry.
 - the appellant stated that he was told to leave the shelter where he was staying but the ministry told him that he "need[ed] to make amends with [his] local community resources."
 - no information was provided to the ministry to indicate that the appellant "explored local community resources to obtain clothes."
 - the ministry is satisfied that that failure to receive a crisis grant will result in imminent danger to the appellant's health.

After the date of the reconsideration decision, additional information was submitted

1. In his Reasons for Appeal dated September 17, 2012 the appellant stated "I had no clothes First Nation Burnt."
2. At the hearing the ministry provided the following information not included in the appeal record:

- there are two sources of clothing in the appellant's community, both stores run by churches. One of the stores is managed by the shelter from which the appellant was evicted.
- clothing is available free of charge from these sources to needy persons in the community, including the appellant.
- a ministry worker informed the appellant that free clothing was available from these sources but the appellant told the worker there would be "no point" in going to these stores himself to look for clothing or in asking someone else to do so on his behalf because he would not wear used clothing.

3. At the hearing the appellant's advocate confirmed that the appellant is a homeless person and that he has mental and addiction problems.

The panel found that the appellant's statement in 1. could not be substantiated or explained but the evidence in 2. and 3. contained information in support of the information and records that were before the minister when the decision being appealed was made; and therefore the panel determined that 2 and 3 were admissible as evidence in accordance with the Employment and Assistance Act (EAA), Section 22 (4).

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant's request for a crisis allowance for clothing was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence. The ministry denied the appellant's request because the ministry determined that the appellant had not met the following requirements of Section 57 (1)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

- that the supplement was required to meet an expected expense or to obtain an item unexpectedly and
- that the appellant was unable to meet the expense or obtain the item because there were no resources available to the family unit.

Employment and Assistance for Persons with Disabilities Regulation Section 57**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, and
- (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.]

With respect to the provision Section 57(1)(a) EAPWDR referring to "an unexpected expense," the ministry's position is that clothing is not an item that is unexpectedly needed. The panel finds that this is a reasonable determination.

With respect to the provision of Section 57(1)(a) EAPWDR referring to "obtaining an item unexpectedly needed," the appellant's position is that his clothes were stolen. The panel notes that the theft of the appellant's clothing is indicated in notes provided on the appellant's file at the ministry. The ministry's position is that there is no evidence the appellant filed a police report regarding the stolen clothing, though advised to do so by the ministry.

The panel finds that the ministry's statement that there was no evidence that the appellant filed a police report regarding the stolen clothing is not evidence that the item was not stolen or that the item

was not unexpectedly needed. The ministry states that "notes provided on [the appellant's file] indicates that the clothes were stolen." Given the evidence that the ministry's notes indicate the clothes were reported to the ministry as stolen, the panel finds that the ministry's was unreasonable in concluding that the appellant's need for clothing is not an unexpected expense.

With respect to the provision of Section 57(1)(a) EAPWDR referring to "resources available to the family unit," the appellant states that he is in debt, though he is trying to pay his bills. He states that he lacks clothes, sleeping gear and shelter. The ministry's position is that it cannot be established that the appellant does not have the resources available to meet his need. The ministry states that though the ministry told the appellant to leave the shelter, he was also told by the ministry that he "need[ed] to make amends with [his] local community resources." The panel finds that the issue of the appellant not taking the ministry's advice to "make amends" with the shelter from which he was evicted is not evidence that there were resources available to meet the appellant's needs. The new evidence at the hearing, however, indicates that there were two sources of free clothing available in the appellant's community from church-run stores and that the appellant told the ministry worker there would be "no point" in going to these stores himself to look for clothing or in asking someone else to do so on his behalf because he would not wear used clothing. The panel notes that under the provisions of Section 57(1)(a) EAPWDR, a requirement is that there are no resources available to the family unit. The panel therefore finds that the ministry's determination that the appellant did not meet the criteria of Section 57(1)(a) EAPWR is reasonable and therefore that the ministry's decision that the appellant does not qualify for a crisis supplement is reasonably supported by the evidence and the panel confirms the ministry's decision.