

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated November 19, 2012, which held that the appellant is not eligible for a crisis supplement to purchase clothing pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act (EAPWDA)* and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. The ministry determined that the appellant meets the criteria of subsection 1 of Section 57(1) of the EAPWDR as the appellant is eligible for disability assistance. However, the ministry determined that the appellant's needs was not unexpected and that there is no indication that the appellant has explored or exhausted other resources in the community or that failure to receive the requested crisis supplement will result in imminent danger to his physical health as required by the Section 57(1)(a) and (b) of the EAPWDR.

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(1)

PART E – Summary of Facts

The evidence before the ministry at reconsideration is a request for reconsideration signed by the appellant on November 6, 2012. The appellant stated that he looked in his storage and discovered that his winter boots were missing, possibly stolen. The appellant further said that on November 5, 2012, he forgot his winter jacket at a station and when he returned after an hour, it was stolen. The appellant is requesting \$270 to replace these items.

The appellant in the Notice of Appeal signed on November 26, 2012 stated that he strongly disagrees with the ministry's decision for the following reasons:

- a- "my regular shoes unexpectedly became worn out with bad holes..... Additionally, I developed a cold in a bad way due to the constant wet feet which lasted 4 to 5 days".
- b- "after checking every 2nd hand store and church for cheap or free replacements, which turned up nothing I tried to get by with my winter boots when I discovered that they were missing or stolen".
- c- "then unexpectedly, my only warm jacket was taken from where I had last put it down";
- d- "Due to the unexpected refusal of your help, and everyone else, I have tried and that the last 20 days I have been sick in bed and have to turn down work";
- e- "for the weather outside of my home The last 20 days I have had to spend home bound due to the obvious risks to my health"
- f- "I also had to cancel going to food bank, which I depend to have enough to eat. I have lost 7 pounds in the last two weeks due to unexpected smaller food supply".

At the hearing, the appellant submitted that his shoes were "falling apart" and he had only one winter jacket that was stolen. He does not have resources to purchase a new jacket and has borrowed his landlord's jacket to stay warm. The appellant further said that he owes money and has been paying off his debt and as a result has had no saving to replace his winter jacket and his boots. The appellant said that he is a large person with size 12 shoes. He has searched every second-hand store and churches and has not been able to find clothing and boots his size.

The appellant told the panel that he does not get a GST refund as it goes to pay for family maintenance. The appellant agreed that his disability assistance is over \$1000 and his rent is \$430 a month but he said that he and his girlfriend owe money and they must pay back the money or they might be in danger of having broken bones.

The ministry told the panel the need for winter clothing cannot be considered unexpected and that there are resources locally that offer free clothing to people that the appellant can access. The ministry added that appellant could choose to manage his income and prioritize his needs. Furthermore the ministry said that the appellant should have known and expected that if he leaves his jacket unattended it might be stolen.

The panel finds that:

- The appellant's assistance is about \$1000 per month;
- His rent is \$430 per month;
- The appellant lost his winter jacket when he left it unattended and his winter boots went missing.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated November 19, 2012, which held that the appellant is not eligible for a crisis supplement to purchase clothing pursuant to Section 5 of the *EAPWDA* and Section 57 (1) of the *EAPWDR*. The ministry determined that the appellant's needs was not unexpected and that there is no indication that the appellant has explored or exhausted other resources in the community or that failure to receive the requested crisis supplement will result in imminent danger to his physical health.

EAPWDA

Section 5 states that subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

EAPWDR

Pursuant to Section 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.

The ministry's position is that the appellant's request does not meet the criteria for a crisis supplement as set out in the legislation. The ministry stated the appellant's need for winter clothing cannot be considered unexpected and that the appellant has not explored alternate resources to purchase or receive clothing. The ministry further submitted that there is no evidence before the ministry that failure to receive his requested items will result in imminent danger to his health.

The appellant argues that he requires the crisis supplement for winter clothing since he does not have any warm clothing and that he has to pay back the money he owes and does not have resources to pay for his clothing. The appellant said that he did not expect his coat be stolen and his need for a winter coat is unexpected.

The legislation requires that the need for the crisis supplement be unexpected, that the failure to obtain an item will result in imminent danger to physical health, and that there are no other resources available to the applicant to obtain the item.

Section 57 (1)(a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The panel notes that the appellant left his coat unattended and that the need for winter clothing in winter time is an expected expense. The panel finds that the ministry was reasonable determining that the appellant's request for crisis supplement for winter clothing was not to meet an unexpected expense.

In respect to Section 57(1)(b)(i) the panel finds that there is no evidence before the panel demonstrating that failure to have warm and proper clothing in winter will result in imminent danger to the appellant's health. The panel finds that the ministry's decision stating that there is no evidence establishing that failure to have warm clothing will result in imminent danger to the appellant's physical health was reasonably supported by the evidence.

The panel accepts the evidence of the appellant that it would be difficult to find extra-large clothing and size 12 shoes in second-hand stores, however, the panel finds that the appellant was receiving about \$1000 a month in assistance and he did not provide evidence of his expenses except for his rent and a personal loan. The ministry also suggested other clothing resources available to the appellant in the community. Therefore, the panel finds that the ministry was reasonable determining that there are other resources available to the appellant to obtain the clothing.

Accordingly, the panel finds that the ministry's decision denying the appellant's request for a crisis supplement for winter clothes was a reasonable application of the legislation and was supported by the evidence. Therefore, the panel confirms the ministry's reconsideration decision.