

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated November 22, 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 evidence establishes that the appellant's request was unexpected; however, the ministry concluded that:

- Failure to obtain the item requested would not result in imminent danger to health;
- The appellant had alternate resources to meet her need.

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 the reconsideration decision is a request for reconsideration signed by the appellant on August 10, 2012. The appellant stated that date on the request for reconsideration is not correct and she signed the request on November 9, 2012.

In the request for reconsideration the appellant submitted that her apartment locker was broken into and she did not know about it until she needed her clothing for the cold weather. The appellant stated that her suitcase with all her winter clothing was stolen. The appellant further stated that she contacted the ministry and was told to report the incident to the police but it was too late to report to the police. The appellant submitted that she has 2 fractures in her spine, bronchitis, and pneumonia, disks missing in her neck and back and had a brain surgery. She said she has no winter clothes.

The appellant in the Notice of Appeal signed on November 27, 2012 stated that she is suffering and has no coat, boots, no proper socks, no glove or sweater. The appellant stated that she is in a critical situation. She pays \$725 for rent and the rest of her income goes to her food because she is in a very strict diet. The appellant said that she has other expenses such as hydro and phone. She has to see a gastroenterologist as she has stomach problem. The appellant said that she is sick and requesting for an emergency clothing allowance.

The appellant in an e-mail to the Tribunal dated November 30, 2012 stated that she had cancer, brain surgery, 2 fractures in her spine, arthritis, has 4 discs missing and will be undergoing treatment for colon and bladder cancer. She lives off \$300 a month and cannot afford to buy and replace the winter clothing she had. The appellant further stated that last year she had pneumonia 3 times.

In an e-mail to the Tribunal on December 4, 2012, the appellant stated that she has pain in her knee and shoulder and has "wicked pounding headache". She is in pain and is on anti-inflammatory medication. She has no resources and lives by herself. The appellant requested a sweat pants, proper running shoes, scarf, a warm coat, a few sweaters and a rain coat. The appellant said that she is wearing her summer clothes and is unable to travel to resources available in the community (second-hand stores) because of her back and neck pain.

At the hearing, the appellant submitted a letter from her physician dated December 12, 2012. The ministry did not object to the letter. The panel accepted the letter from the doctor and the email from the appellant as being in support of the information before the ministry under Section 22(4) of the *Employment and Assistance Act (EAA)* and therefore admitted both into evidence.

The physician reported that the appellant has chronic abdominal pain from esophageal cancer, had a prior brain surgery due to a blood clot and as a result has recurrent headaches. The physician further reported that the appellant has asthma, chronic back pain, degenerative disc disease in the neck and chronic anxiety disorder.

The appellant told the panel that she has no money to buy the winter clothes she needs for the cold weather. The appellant said that she moved from her residence to her current apartment because she did not feel safe and had no one to help her if she needed help. The appellant said that she left 3 suitcases in the storage as she did not have anyone to help her move her belongings. The appellant added that in late summer, the weather started to get cold and she decided to go and pick up her belongings. She said that the new manager of the building told her that few of the lockers were broken into. She picked up her belongings and went home to find out that two suitcases with Christmas decorations and her children's belonging were untouched; however, the appellant said that the suitcase that had her winter clothing was empty. She said that at the time she did not report to police because "the new manager didn't know me". The appellant said that she called the ministry in November and tried to explain that her belongings were stolen but the staff of the ministry was

very rude and didn't listen to her. The appellant said the ministry suggested that she call police and report the incident and move to a cheaper place. She can't move because she has anxiety attack and is fearful for her safety and can't live in a basement suite of other people. The appellant said that her brother will be moving to her residence next month to help her with the rent.

The appellant stated that she has some clothing but it is not warm enough for the winter since she walks a lot collecting bottles for extra income and has to walk a long way to go to the local food bank. The appellant agrees that she knew that she needed warm clothes in late summer but did not have the funds to purchase the clothes. The appellant further stated that she does not have anyone to help her accessing community organizations and is not willing to get second-hand clothing due to her health problems and her low immune system.

The ministry told the panel different reasons for denial and stated that the appellant's need for winter clothing cannot be considered unexpected. The panel must consider the reasonableness of the ministry's reconsideration decision in which the ministry concluded that the appellant's need for clothing was unexpected. The ministry further stated that there are resources locally that offer free clothing to people that the appellant can access. The ministry added that appellant could choose to rent a cheaper residence in order to have enough income to pay for her clothing and if she does not want to move to another place, she needs to access community services. At the hearing the ministry said that there is no issue that the crisis supplement is required to avoid imminent danger to the appellant's health; however, the reconsideration decision found that imminent danger was not established.

The panel finds:

- The appellant has chronic abdominal pain from esophageal cancer and other health issues;
- The appellant discovered her winter clothes stolen in August 2012;
- The appellant did not report the incident to police;
- There was no information before the ministry supporting the appellant's claim about theft from the lockers;
- The appellant requested winter clothing in November 2012;
- There is a conflict between the ministry's reconsideration decision and the ministry's submission in the hearing as to whether the appellant's need for clothing was expected or not. The panel considers the reconsideration decision in which the ministry concluded that the appellant's need for clothing was unexpected.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated November 22, 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 evidence establishes that the appellant's request was unexpected; however, the ministry concluded that:

- Failure to obtain the item requested would not result in imminent danger to health;
- The appellant had alternate resources to meet her need:

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 appellant argues that she requires the crisis supplement for winter clothing since she does not have any warm clothing and that she is very sick and needs to stay warm. The appellant argues that the high cost for her rental residence is because she is fearful for her safety and cannot live in unsafe places.

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

In respect to Section 57(1)(b)(i) the panel finds that based on the medical evidence and testimony of the appellant failure to have warm and proper clothing in winter will result in imminent danger to the appellant's physical 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 not reasonably supported by the evidence.

The panel notes that the ministry in the reconsideration decision concluded that the appellant's need for clothing was unexpected and as such there is no issue regarding Section 57 (1)(a) of the EAPWDR that 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 further finds that the appellant failed to monitor her expenses and that she has not made any arrangement to decrease her cost of living to live in the range of her income. The panel also relied on the testimony of the appellant and the ministry that there are charities in the community that provide free clothing. 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 decision.