

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated December 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 (b) of Section 57(1) of the EAPWDR as the appellant is eligible for disability assistance as the minister is satisfied that failure to obtain adequate winter clothing and footwear will result in imminent danger to the appellant's health. However, the ministry determined that the appellant's needs were not unexpected, the appellant's monthly support allowances are expected to be used for ongoing expenses such as clothing, and that there is no indication that the appellant has explored or exhausted other resources in the community therefore the criteria of Section 57(1)(a) of the EAPWDR were not met.

## 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 included:

- A copy of the Supplement Application Form completed by the appellant and his wife on January 4, 2010;
- A copy of a rent and parking receipt dated December 2, 2012 for the amount of \$953.00;
- Request for reconsideration signed by the appellant on December 7, 2012.

In the request for reconsideration the appellant stated that due to his wife's mental health condition, they have lived in a two bedroom apartment since 2006 and their current monthly rent is \$953. The appellant submitted that they did not buy any winter clothing for the last 7-8 years and they need them this year. The appellant said that he has hypertension and "white-coat syndrome". He had to purchase a blood pressure monitor as prescribed by his physician using his Christmas gift of \$70.00.

The appellant in the Notice of Appeal dated December 21, 2012 stated that he and his wife need winter clothing and they don't have money to purchase them.

At the hearing, the appellant submitted that he does not understand why his request for winter clothing is not unexpected. The appellant said that he did not expect that his overcoat he purchased about 10 years ago would be worn out and that he was not able to use it for the winter. The appellant further said that his wife was working which assisted the family financially but she is not able to work due to the fact that she is over 60 years of age and that he did not expect that his wife won't be able to work.

The appellant submitted that he goes to the food bank once a week to get food and looks for shoes and over coats. The appellant said that in the previous years he was able to find free clothing at the food bank; however, this year he was not able to find any which also supports his request as being unexpected because he did not expect that he could not find any free winter clothing. The appellant said that his shoes are falling apart and have holes in them. He said that on the last rainy day, he went to the food bank and came home with wet feet and fever. The appellant said that he needs warm clothing due to his medical conditions. He has heart problems that in wintertime get worse, he has pain in his knees and has to keep them warm and has hypertension. The appellant said that his medical conditions are not in his control and as such he does not understand how his need for winter clothing is unexpected. The appellant further said that because of his wife's medical condition, he has to live in a two bedroom apartment and as such, he does not have any resources to pay for winter clothing. The appellant told the panel that he receives \$1,280 assistance per month and \$300 tax refund 4 times a year but he uses the money to pay for food and other expenses such as over the counter medications.

The ministry told the panel the need for winter clothing cannot be considered unexpected and that there are resources locally that offer free or cheap clothing to people that the appellant can access. The ministry added that appellant could choose to manage his income and prioritize his needs and use his tax refunds to purchase clothing from places such as Value Village.

The panel finds that:

- The appellant's assistance is about \$1,280 per month and he receives \$1,200 tax refund per year;
- His rent plus parking is \$953 per month;
- The appellant's medical conditions requires him to stay warm in winter time;
- The appellant and his wife have to live in a two bedroom apartment due to the wife's medical conditions.

## PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated December 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's needs were not unexpected, the appellant's monthly support allowances are expected to be used for ongoing expenses such as clothing, and that there is no indication that the appellant has explored or exhausted other resources in the community therefore the criteria of Section 57(1)(a) of the EAPWDR were not met.

### **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 appellant argues that he requires the crisis supplement for winter clothing since he does not have any warm clothing and that he has no resources to purchase clothing. The appellant says that he only has one pair of shoes that have holes in them and he has been borrowing warm clothes from his family and friends in order to survive the cold weather. The appellant further submits that he has been on income assistance for a long time and this is the first time he has requested assistance to purchase winter clothing.

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 was aware of his medical conditions and that he needed warm clothing for winter. The panel further finds that the appellant has been aware of the medical conditions of his wife and that he needed to pay higher rent for a two bedroom apartment. 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.

The panel accepts the evidence of the appellant that it would be difficult to find free clothing, however, the panel finds that the appellant is receiving about \$1,280 a month in assistance and \$1,200 tax refund per year. The appellant also agreed with the ministry that other clothing resources are available in his 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.