

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the "Ministry") February 26, 2013 reconsideration decision denying the Appellant's request for a crisis supplement for clothing for her 3 dependants because the Appellant did not establish that:

- the need for the clothing was unexpected or there was an unexpected expense as required by section 59(1)(a) of the Employment and Assistance Regulation; and,
- the failure to obtain the item or meet the expense will result in imminent danger to the physical health or the removal of a child from her home under the *Child, Family and Community Service Act*; as required by section 59(1)(b) of that regulation; and,

because the Appellant had already received the maximum allowable crisis supplement for her 3 dependants in the 12 calendar months preceding her February 13, 2013 request, as provided for in section 59(4)(c) of that regulation. The Ministry did determine that the Appellant did not have the resources available to meet the expense or to obtain the items.

## PART D – Relevant Legislation

Employment and Assistance Regulation ("EAR") Section 59(1) and (4).

## PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from its records that the Appellant receives income assistance as a single parent with three dependants.
2. Appellant's March 2012 crisis supplement of \$300 for clothing for her 3 dependants because their clothing was damaged after a water tank leak and flood.
3. Appellant's February 13, 2013 request for a crisis supplement for clothing for the same dependants because her place was flooded and their clothing was damaged, wet and moldy.
4. Appellant's request for reconsideration in which she wrote that her 3 dependants had to stay home from school for a week because their clothes were destroyed. She stated that she had no money because of expenses related to the flood, moving and laundry. She was able to save some clothing, but not enough for school. The Appellant also wrote that the flood and the children's clothes being destroyed were not her fault. She referred to an attached letter, which the Ministry did not receive.

With her notice of appeal, the Appellant submitted a letter from her previous landlord that was referred to in her reconsideration request. In the letter dated February 13, 2013, the landlord wrote that late in the evening of February 10, 2013 a flood occurred in the Appellant's unit. Water damage was so extensive that the Appellant was not able to continue residing in the property. Therefore, the Appellant was securing an alternate rental and she was released from any further rent liability.

The Appellant also submitted a statement, dated March 8, 2013, in which she wrote that it was impossible for her to clean the clothes after the flood because she had to pack her belongings and find someone to help with the move. The management company asked her to leave as soon as possible so that the restoration work could be done. The Appellant wrote that the water damage was so extensive that it wasn't safe for them to stay there. The water was 2 inches deep through the whole apartment. The water sprinkler in the children's room went off and the fire department could not shut it off for half an hour. The Appellant stated that this is how everything in the children's room, including clothes, got damaged.

The Appellant wrote that she had to throw all of their belongings in the garbage, including their TV, their bed, books, pictures, shoes, furniture (lamps) and everything else. The Appellant stated that they were out of there in 5 days, she had little money and she was lucky to get help moving from someone who had a vehicle. The Appellant wrote that she could not take the damaged clothes and she had to pack everything and be out of the apartment in 2 days. Her support money was spent on the flood and she has no money for her and the children.

At the hearing, the Appellant testified about the flood incident, the damage to all the belongings and why she had to move quickly. She provided the same details as in the written statement submitted with her notice of appeal. The Appellant also said that the water from the sprinkler was as powerful as that from a fire hydrant and it took more than half an hour to stop the water. She explained that the children's clothes were not in a dresser, but were hanging in a closet without doors, on a shelf in the closet and in plastic bins in the room. That's why the clothes were damaged and she had to get rid of them. The Appellant said that they were asked to leave in two days and they could not use the washers and dryers in the building. She had to deal with so many things in the move that she could not think about cleaning and drying the clothes. The Appellant said this incident was not her fault, nor was the flood from the water heater in March 2012. She does not have extra money for crises like this. She has had to do with less food and other things.

Pursuant to section 22(4) of the Employment and Assistance Act, the Panel admitted the landlord's letter, the Appellant's written statement and her testimony at the hearing as providing additional information about her need for the crisis supplement and as being in support of the evidence that was before the Ministry when it made its reconsideration decision.

At the hearing, the Ministry reviewed and relied on its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant is receiving income assistance as a single parent with 3 dependants
2. On March 13, 2012, the Appellant received a crisis supplement for clothing of \$100 for each dependant for a total of \$300.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant's request for a crisis supplement for clothing for her 3 dependants because she did not establish that:

- the need for the clothing was unexpected or there was an unexpected expense as required by section 59(1)(a) of the EAR; and,
- the failure to obtain the item or meet the expense will result in imminent danger to the physical health or the removal of a child from her home under the *Child, Family and Community Service Act*; as required by section 59(1)(b) of that regulation; and,

because the Appellant had already received the maximum allowable crisis supplement for her 3 dependants in the 12 calendar months preceding her February 13, 2013 request, as provided for in section 59(4)(c) of that regulation.

### Applicable Legislation

The following sections of the EAR apply to the Appellant's circumstances in this appeal:

59(1) The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if

(a) the family unit or 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 time 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*.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(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 Panel will consider the parties' positions with respect to those requirements in EAR sections 57(1)(a) and (b) and 59.(4)(c) that are at issue in this appeal.

### Unexpected need/unexpected expense

The Ministry's position is that, although the flood in the Appellant's 4<sup>th</sup> floor apartment was an unexpected event, the Appellant did not explain why a majority of the children's clothes were ruined and why she was not able to clean and dry them after the flood. Therefore, the Ministry was not satisfied that the need or the items were unexpected or that the Appellant needed the supplement for an unexpected expense.

The Appellant submitted that the flood caused by the sprinkler ruined everything in the children's room because the water from the sprinkler was as powerful as a fire hydrant and did not stop for over half an hour. Also, the children's clothes were in an open closet and in plastic bins so the water soaked them. The Appellant also submitted that she could not use the washer and dryer in the apartment building. She was dealing with so many thing to get them moved that she was unable to get any clothes cleaned and dried.

The Panel finds that there is no dispute that the flood and water damage was an unexpected event.

Also, the Appellant explained why the clothes got so damaged and why she was unable to clean them. The clothes were in exposed areas, the strong water flow from the sprinkler continued for over half an hour and with moving to another place in a short time, the Appellant was unable to deal with cleaning and drying the clothing. Therefore, based on all of the evidence, the Panel finds that it was not reasonable for the Ministry to determine that the Appellant did not need the supplement to meet an unexpected expense or obtain an item unexpectedly.

*Imminent danger to physical health/removal of a child*

The Ministry's position is that the Appellant provided no information to establish that the failure to obtain clothes for the dependants would result in imminent danger to their health or their removal from her home under the *Child, Family and Community Service Act*.

The Appellant submitted that this was a crisis and she needs the supplement.

The Panel finds that there is no evidence that the failure to obtain the crisis supplement for the 3 dependants would result in imminent danger to the health of any of them or their removal from the Appellant's home. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant did not meet the requirements in section 59(1)(b) of the EAR.

*Maximum allowable crisis supplement*

The Ministry's position is that because the Appellant received a \$100 crisis supplement for each of the 3 dependants, for a total of \$300 in March 2012, she already received the maximum allowable crisis supplement for each of them for the 12 calendar months preceding her request on February 13, 2012.

The Appellant's position is that neither flood was her fault and she needs the supplement because of her limited finances.

The Panel finds that EAR section 59(4)(c) specifically limits the amount of crisis supplements available for clothing to \$100 for each person in the family unit in the 12 months preceding the request. In this case, the Appellant does not dispute that she received a \$300 clothing supplement for her 3 dependants in March 2012, about 11 months before the request that is under appeal. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant is not eligible for a further clothing supplement for the dependants because of the limitations in section 59(4)(c) of the EAR.

Conclusion

After considering all the evidence, the Panel confirms the Ministry's reconsideration decision because it was reasonably supported by the evidence and was a reasonable application of the applicable regulation in the Appellant's circumstances.