

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of March 7th, 2013 wherein the appellant was denied a crisis supplement for clothing under section 59 Employment and Assistance Regulation because he did not meet the legislated criteria set out in section 59(1) EAR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed; and, that he did not have resources available to the family unit as set out in section 59(1)(a) EAR.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 59(1)(b) EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 59

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Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 59(1)(b) EAR.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 59

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Request for reconsideration dated February 27th, 2013.

The appellant is a single employable person with no dependants. On February 4th, 2013 the appellant contacted the ministry to report there were bed bugs in his apartment which had infested his clothing and bed. The ministry worker (EAW) advised the appellant to contact his landlord to have his apartment fumigated; to leave his bed in his apartment; and, to wash all his clothing in hot water and then dry them thoroughly. On February 13th, 2013 the appellant again contacted the ministry requesting a crisis supplement for clothing which he had discarded because of the bed bugs. He stated that he was not aware that the EAW told him that he could get rid of the bed bugs by washing his clothing. The appellant's request was denied.

In the request for reconsideration the following statements were made, the author is unknown:

- he is currently struggling with pain and substance abuse issues;
- his level of comprehension regarding bed bugs being treatable is very questionable due to underlying paranoia and education
- his ability to pursue further contact with the ministry in regards to being satisfied that other resources were available is very impaired.

At the hearing, the appellant testified that when he called the ministry on February 4th, he was not told not to throw out his clothing or his bed or that he could get rid of the bed bugs by washing his clothes in hot water and drying them thoroughly. The appellant testified he did not realize that you could get rid of bed bugs in this manner until he contacted the ministry on February 13th, 2013 and by that time he had already discarded his clothing, his bed, and moved out of his residence and into a community shelter. The appellant testified that he was exposed to the cold winter temperatures of February with only a lighter jacket and insufficient clothing to be able to put on extra layers as he only had one pair of jeans and a t-shirt. The appellant testified that he would find places in the community during the day to get warm. During the evening he was inside in the shelter so he did not feel his health was in imminent danger but he was often cold without extra clothing. The appellant testified he did not have access to laundry facilities at the shelter and the shelter does not allow anyone to bring in clothing that is infested with bed bugs. The appellant testified that he is not very mobile as he is awaiting hip surgery and did not have funds to pay for laundromat facilities. The appellant testified that he is now considering sharing accommodation with his cousin.

The panel finds the appellant's testimony contains information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) of the Employment and Assistance Act (EAA).

At the hearing, in addition to the facts contained in the reconsideration decision the ministry stated that the last crisis supplement the appellant received was in December 2011.

The panel finds the ministry's testimony does contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) of the Employment and Assistance Act (EAA).

The panel makes the following finding of fact:

1. The appellant contacted the ministry on February 4th, 2013 and February 13th, 2013 about the bedbug infestation at his residence.
2. The appellant discarded his clothing, his bed, and moved out of his residence and into a shelter between February 4th, and February 13th, 2013.
3. The last crisis supplement for clothing the appellant received was in December 2011.

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4. The appellant was living alone when he applied for the crisis supplement.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant a crisis supplement for clothing under section 59 Employment and Assistance Regulation because he did not meet the legislated criteria set out in section 59(1)(a) EAR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed and there were no available resources.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 59(1)(b) EAR.

The legislation considered: EAR

Section 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 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*.

(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.

In reference to section 59(1)(a) EAR - The ministry argued that the crisis supplement for clothing should not be considered as an unexpected expense or an item that is unexpectedly needed as the appellant was advised to wash his clothes in hot water and then dry them thoroughly to get rid of the bed bugs. The ministry recognized getting bed bugs is an unexpected occurrence, however, the appellant chose to throw away his clothes instead of washing and drying them and avoiding the unexpected expense.

The appellant argued that the ministry did not tell him to wash his clothes to get rid of the bed bugs and that he himself didn't understand the legislation or know that washing and drying the clothes would get rid of them. The appellant argued that he is waiting for hip surgery and is not mobile and the shelter he moved into does not permit infested clothing to enter the premises nor does the shelter have laundry facilities.

The panel finds there is conflicting evidence regarding what the appellant was told on February 4th, 2013. The panel finds that there is insufficient information to establish whether or not the appellant was told on February 4th, 2013 to wash his clothes to get rid of the bed bugs. The appellant does acknowledge that he called the ministry on that date and reported the bed bugs in the unit. The appellant stated that he did not understand the legislation and had problems understanding what he was being told, however, the legislated criteria must be met.

The panel finds that the ministry's decision that appellant was not eligible for a crisis supplement to meet an unexpected expense or obtain an item that was unexpectedly needed was reasonable because the appellant made a choice to discard his clothing and therefore the need to replace them is not unexpected.

Further, in reference to section 59(1)(a) EAR, regarding resources available to the family unit to meet the unexpected expense or obtain the item unexpectedly needed; the ministry argued that the appellant is required to access all resources to meet his needs; that he has resources available to make any purchases he wished as he had his monthly support allowance and there are community resources that he could access to find clothing.

The appellant argued that he has a phobia about wearing other people's clothing so he didn't access any community resource centers and he did not have any funds to replace the clothes he discarded.

The panel finds the evidence does not support the appellant's position that he does not have resources available because he did not attempt to access any community resources to replace the discarded clothing and that he did acknowledge he has family in the community and that he and a cousin are now going to rent a place together. There is no medical evidence before the panel to establish that the appellant has psychological issues (phobia's).

The panel finds the ministry's decision to determine that the appellant had resources available for clothing was reasonable.

In reference to section 59(1)(b) EAR – the minister considers that failure to meet the expense or obtain the item unexpectedly needed will result in imminent danger to the physical health of any person in the family unit, or the removal of a child under *Child, Family and Community Service Act*.

The ministry argued that the appellant did not provide the ministry with an explanation about how his physical health is in imminent danger because of the clothing need. The ministry argued the appellant's submission states that he has "one change of clothing" but he does not go into further detail specifying any particular articles of clothing that he might require.

The appellant argued that he only had one pair of jeans, a T-shirt and a light jacket to wear. The appellant argued that he was staying in the community shelter and was cold when he went outside. The appellant argued he would often go into community resource centers to stay warm that he needed extra clothing so he could "layer up" to keep warm.

The panel finds the evidence does not establish that the appellant's health was in imminent danger if the ministry did not provide him with a crisis supplement for clothing.

The panel also finds the appellant lives alone so the legislation regarding the removal of children is not applicable to this appeal.

The panel finds that the ministry's decision to determine that failure to meet the expense or obtain the item unexpectedly needed would not result in the imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* was reasonable.

The panel finds that the appellant did not meet the legislated criteria stated in section 59(1) EAR and therefore the appellant is not eligible for a clothing supplement albeit his last clothing supplement was provided in December 2011.

The panel finds that the ministry's reconsideration decision is a reasonable application of the legislation in the circumstances of the appellant, and accordingly confirms the decision pursuant to section 24(1)(b) and 24(2)(a) of the *Employment and Assistance Act*.