

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated January 7, 2013 which found that the appellant was not eligible for a crisis supplement requested under section 59 (1) of the Employment and Assistance Regulation (EAR). The request was for clothing. The ministry found that her request did not meet one of the three criteria as set out in Section 59 (1) of the EAR, namely that she is unable to meet the expense or obtain the item because there are no resources available to the family unit. The ministry determined that she met the other two criteria as the information provided established that the circumstances around her request had created an unexpected need and that failure to obtain boots would result in imminent danger to her physical health.

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 included:

- December 5, 2012: the appellant requests a crisis supplement for clothing and is denied. At the time, the appellant states her shoes were worn and broken. She also indicates her belongings had been stolen from shopping carts. A review of her file shows that the appellant made a similar request on November 1, 2012. Her advocate, however, advises that she did, in early November, obtain a pair boots, but that they wore down much faster than expected.
- December 17, 2012: a community outreach establishment advises the ministry that the appellant declined to accept a pair of boots that had been set aside for her.
- December 20, 2012: the appellant's request for reconsideration is received by the ministry. Included is a written statement dated December 18, 2012 from the appellant who reports that her carts were unexpectedly stolen in September and since then she has been trying to replace her clothing and belongings. She also reports that she cannot afford boots as they are too expensive, and boots she did find at a community thrift store were much too heavy. The appellant also reports that she cannot wear a heavy boot as her broken kneecap and foot causes pain.
- Also provided was a letter dated December 19, 2012 from her advocate who has worked with the appellant since December 2008 and who noted the following:
 - The shopping carts stolen from the appellant contained clothing she had obtained from community resources over a long period of time.
 - The appellant exhausted her community resource options, but could not find appropriate footwear. The footwear available through community options is second-hand and of questionable quality and/or not weather appropriate and the appellant has a poorly healed broken knee cap and a disfigured foot due to an improperly healed break.
 - The appellant was gifted new boots in early November from a local church volunteer, but these were not suitable for 24/7 use in all weather conditions for a homeless person like the appellant and by mid-November they had fallen apart. Without proper footwear her foot problems worsened and pain limits the options for footwear.
 - While the appellant did receive several crisis grants, a Christmas bonus and her income assistance, these resources were used to buy clothes, food, coffee to keep warm and other necessities such as paying to stay on friends' couches.

In her Notice of Appeal (NOA) dated January 16, 2013 the appellant states "Disagree because boots given by [Community Outreach] did not fit but were put aside in hopes that would fit when foot in better condition." The panel admits the NOA under section 22 (4) of the Employment and Assistance Act as being in support of the information that was before the ministry at the time of reconsideration.

At the hearing, the appellant and her advocate outlined the issues the appellant faces with footwear due to a broken foot, bone spurs and a diabetic toe. The appellant stated she needs a more expensive air cast boot that cannot be found in thrift stores. The boots she had were totally worn out when she first approached the ministry and on the second occasion she was wearing slippers. The appellant noted that the \$50.00 mid month cheque in December that was issued was used for food and to restore clothing that was stolen. The appellant's advocate noted that she sees the appellant almost every day and that the appellant tries her best to access and use community resources.

At the hearing, the Ministry stood by the record. It noted that in September 2012 a mid-month cheque of \$50.00 was set up for the appellant. The appellant can pick this cheque up at her discretion each month after her normal cheque issuance. The money is part of her support payment to be used for food or clothing and could have been applied to her need for boots. The ministry noted that the appellant has no fixed address and does not receive a shelter allowance. It further noted that at the time the appellant was preparing her request for reconsideration, she had received her January assistance of \$165 plus \$50.00 advance. In December, the ministry also confirmed that the appellant received two \$20.00 crisis supplements for food. The ministry also noted that the appellant has \$20.00 deducted from her support allowance as a repayment matter. With respect to the appellant's claim that she needs an aircast boot and suffers from diabetes, the ministry has received no medical confirmation. It notes that such confirmation would allow it to consider the appellant request for a specialized boot and even a further supplement for her diabetic condition. Further, a community resource organization advised the ministry on December 17, 2012 that the appellant declined to accept a pair of boots that had been set aside for her, and that if these boots did not fit they would make an effort to locate some that did.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant was ineligible for a crisis supplement for clothing because the appellant did not meet one of the three criteria for a crisis supplement as set out in section 59 (1) of the EAR, specifically, that she did not demonstrate that there were no alternate resources available to meet the expense or obtain the item

The ministry determined that she met the other two criteria as the information provided established that the circumstances around her request had created an unexpected need and that failure to obtain boots will result in imminent danger to her physical health.

The following section of the EAR applies to this appeal:

Crisis supplement

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*.

(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;

(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.

Section 59 of the EAR lists 3 criteria which must be met before a person can receive a crisis supplement. There must be an unexpected expense or need, there must be no resources to meet the expenses or need and that failure to meet the expense or obtain the needed item will result in imminent danger to the health.

The ministry in its reconsideration decision found the appellant met the first and third criteria. The ministry found, however, that the appellant had not satisfied the requirements of the second criterion that there were no resources available to her to meet the expense of new boots.

The ministry argues that the appellant's situation does not meet the eligibility criteria for a crisis supplement in this instance as the appellant had alternate resources to purchase boots. It argues her support allowances are intended to be used for daily living expenses such as footwear and clothing and that she received monies that could have been applied to purchasing boots that she knew were necessary. Further, there is no medical evidence to confirm her need for specialized footwear and therefore it cannot be determined that she exhausted her ability to find suitable boots through community resources.

The Appellant argues she used her support assistance for food and also could not access community resources for footwear as the thrift stores cannot provide the appropriate and specialized footwear she requires due to her medical conditions.

With regard to the second criterion, the panel finds that the appellant has not demonstrated alternate resources were not available to her. Further, while the appellant indicated in her written and oral testimonies that she has medical conditions that require more specialized footwear which is difficult to obtain from community resources, there is no medical evidence or comment from a health professional of any kind that she requires specialized footwear and cannot use the resources available through community thrift stores. Further, while there is evidence that she did access some community resources, the evidence does not indicate that she fully exhausted these resources. Further, the panel finds the appellant did receive crisis supplements for food during this time, but has not adequately demonstrated why she could not have budgeted and applied her support allowance to boots which she says she badly needs. Therefore, the panel cannot conclude there were no resources available to her and finds that the ministry reasonably determined that the appellant had resources available to her.

The panel, therefore, finds the appellant did not meet all the legislative criteria to qualify for a crisis supplement and confirms the ministry's decision as a reasonable application of the legislation in the circumstances of the appellant which is reasonably supported by the evidence.