

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated March 7, 2013, 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 of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. The ministry determined that the appellant does not meet the criteria of section 57 of the EAPWDR as the appellant has not provided information to establish that:

- 1- The appellant requires a crisis supplement to meet an unexpected expense or unexpected need;
- 2- The appellant does not have any resources available to him to obtain clothing;
- 3- Failure to obtain clothing will result in imminent danger to his physical health.

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:

- Ministry's decision dated January 28, 2013;
- Request for reconsideration signed by the appellant on February 18, 2013.

In the request for reconsideration the appellant stated that he has no other resources to pay for his clothing. The appellant stated that he was unable to pay his monthly strata fees and he is "in debt of \$1500.00". The appellant said that the ministry's reasons denying him a clothing allowance are not reasonable and "things are being made up to deny me this request". The appellant stated that he had to evict his tenant 18 months ago as the tenant set his place on fire, and he had to apply for a second mortgage to fix his place. The appellant stated that he has severe migraine, cirrhosis of the liver, C.O.P.D., headache from dealing with stress, and low testosterone levels. The appellant further stated that he has a disc pressing his sciatic nerve and has swollen legs, feet and groin area. The appellant stated that "I am in debt every month".

In the Notice of Appeal dated March 21, 2013, the appellant stated that he disagrees with the ministry's decision as he was not aware that "I had to be practically dying to get just a clothing allowance". "My mistake was telling the wrong person". The appellant stated that he has no friends or relatives that can help him and he is too ill to work. The appellant further stated that the ministry withheld information from him and did not tell him what he has to provide in order to be eligible for a clothing allowance and that the ministry worker did not let him to speak with the office supervisor.

The appellant did not attend the hearing. After establishing that the appellant had been notified of the hearing and waiting for 15 minutes, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation (EAR).

At the hearing, the ministry told the panel that the need for clothing cannot be considered unexpected and there are local resources that offer free or cheap clothing that the appellant can access; however, the ministry said that the appellant declined to use the available resources available and stating that he did not like to use second hand clothing. The ministry said that the appellant could choose to manage his income and prioritize his needs to purchase clothing. The ministry further submitted that the appellant requested a clothing allowance on the day after he received his assistance. The appellant receives \$531 support and \$375 shelter allowance. In addition, the appellant receives a Monthly Nutritional Supplement and additional assistance to purchase vitamins. The appellant has been designated PWD since 1997 and is well aware of how much money he has to work with each month.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated March 7, 2013, 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 ministry further determined that the appellant has not provided information to establish that failure to obtain clothing will result in imminent danger to his physical health, and 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 clothing cannot be considered unexpected and that the appellant has not explored alternate resources to purchase or receive clothing. The ministry further stated that there is no evidence that failure to obtain clothing will result in imminent danger to the appellant's physical health.

The appellant in the request for reconsideration and the Notice of Appeal argues that he requires the crisis supplement for clothing because he does not have any resources to purchase clothing. The appellant stated that he had to apply for a second mortgage to fix his place as his tenant set his home on fire. The appellant said that he is in debt every month with little or no money for food.

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 monthly income and expenses and that he required clothing. The panel finds that the ministry was reasonable in determining that the appellant's request for a crisis supplement for clothing was not to meet an unexpected expense or unexpected need.

The panel accepts the appellant's evidence that he does not have any friends or relatives that can help him; however, the panel notes that there is no evidence to establish that the appellant made an effort to access community resources to obtain cheap or free clothing. Additionally, the panel notes that the appellant receives at least \$1000 a month in assistance and he is expected to use part of this amount for necessary expenses including clothing. Therefore, the panel finds that the ministry was reasonable in determining that there are other resources available to the appellant to obtain the clothing.

Section 57 (1) (b) of the EAPWDR states that the minister may provide a crisis supplement to a family unit that is eligible for disability assistance if the failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit. The panel accepts the evidence of the appellant that he has severe migraine headache, cirrhosis of the liver, C.O.P.D. and a disc pressing on his sciatic nerve; however, the panel notes that there is no evidence to show that failure to obtain the clothing will result in imminent danger to the appellant's physical health. Therefore, the panel finds that the ministry was reasonable in determining that information has not been provided to establish that failure to obtain clothing will result in imminent danger to the appellant's physical health.

Accordingly, the panel finds that the ministry's decision denying the appellant's request for a crisis supplement for clothing was a reasonable application of the legislation and was supported by the evidence. Therefore, the panel confirms the ministry's reconsideration decision.