

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated May 22, 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 meets a criterion of Section 57 (1) of the EAPWDR as the appellant is eligible for disability assistance. However, the ministry determined that the appellant's need for clothing was not unexpected and that there is no indication that the appellant has explored or exhausted other resources in the community or that failure to obtain clothing will result in imminent danger to her physical health as required by Section 57 (1) (a) and (b) (i) of the EAPWDR.

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 the time of reconsideration consists of:

- 1) The ministry's decision regarding denying a crisis supplement dated and signed April 10, 2013,
- 2) The appellant's request for reconsideration signed and dated May 7, 2013, which states:
 - "section 57 of the employment + assistance for persons with disabilities states eligibility"
 - "second-hand clothing purchased last year wearing out"
 - "stressful year has resulted in weight fluctuations"
 - "once yearly clothing allowance"
 - "\$50 for each season (clothing for heat/cold) is hardly exorbitant and has always been allowed – plus it is part of section 57 as to eligibility. As a client on disability I believe am entitled to this once yearly assistance"
 - "considering shoes, boots, underwear, socks etc. are included it would be unconscionable to deny appeal"

Prior to the hearing the following information was submitted:

- 1) A notice of appeal signed by the appellant and dated May 31, 2013, which states "The ministry interpreted the legislation too narrowly",
- 2) A release of information form signed by the appellant and dated June 11, 2013,
- 3) A written submission from the advocate which states that the appellant's newly adopted cat fell ill which lead to visits to the veterinarian and the purchase of medication and that these expenses were unexpected, that the appellant lost 20-30 lbs due to the stress of her mother's death resulting in her clothing is now being too big for her, that she only owns one bra, two pairs of underwear and one t-shirt with the rest of her clothing being too big and worn out, that the appellant unsuccessfully attempted to access community resources to meet her need for clothing, and that by not wearing proper attire, the appellant's physical health is in imminent danger.
- 4) 9-pages of photocopies of veterinarian bills dated from May 1, 2012 to November 29, 2012 (including a duplicate copy of the July 12, 2012 bill) that is titled 'Exhibit A',
- 5) A one page hand-written submission which lists the community resources that the appellant accessed for second-hand clothing items, the dates (June 3 – June 7) she attended and the results of her findings,
- 6) The reconsideration decision dated May 22, 2013.

In its email dated June 25, 2013, the ministry did not object to the admission of the above new evidence. The panel determined the additional evidence of the veterinarian bills and the written submission from the advocate was admissible under section 22(4) (b) of the Employment Assistance Act (EAA) as they are in support of the records before the minister at the time of reconsideration. The panel further determined that the hand-written note indicating the community resources the appellant accessed for clothing was not in support of the evidence before the ministry at the time of the reconsideration decision, and therefore is not admissible under section 22(4) (b) of the EAA. The panel also notes that the visits to the community resources took place after the reconsideration decision was rendered and therefore this evidence is not admissible pursuant to section 22(4) EAA.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated May 22, 2013, which held that the appellant is not eligible for a crisis supplement to purchase clothing pursuant to Section 5 of the EAPWDA and Section 57 (1) of the EAPWDR. The ministry determined that the appellant's need for clothing is not unexpected and that there is no indication that the appellant has explored or exhausted other resources in the community or that failure to receive the requested crisis supplement will result in imminent danger to her physical health.

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 or 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;

(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.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

The ministry's position is that clothing is an ongoing expense and it is not unexpected that clothing would need periodic replacement, that there has been no unexpected expense or need for an unexpected item pertaining to clothing. The ministry further asserts that monthly allowances are intended for expected expenses such as clothing, the appellant has failed to demonstrate that she attempted to access community services to meet her clothing needs and the appellant failed to

provide confirmation of veterinarian expenses or amounts paid to the veterinarian to demonstrate that regular funds were unavailable. Finally, the ministry holds the position that there is insufficient information to establish that failure to obtain clothing will result in imminent danger to the appellant's physical health.

The appellant's position is that she is entitled to a yearly clothing allowance, that her disability assistance and HST benefit were utilized to pay veterinarian bills for her ill cat, and stress from her mother's death has caused her weight to fluctuate thus her old worn-out clothes do not fit. She has also provided evidence to support her position that monies went to pay the veterinarian bills and that she accessed community services for clothing but was unable to find clothes in her size. Without proper fitting clothes, the appellant argues that her physical health is in imminent danger.

The legislation requires that the need for the crisis supplement be unexpected, that there are no other resources available to the applicant and that failure to obtain an item will result in imminent danger to physical health.

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 person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The panel notes that due to the appellant's fluctuating weight and weight loss over the past year her clothing is too large for her, that clothes purchased last year are worn-out, and that she paid unexpected veterinarian bills in 2012. However the expense of purchasing additional clothing items was not unexpected as the need for clothing is an ongoing expense. Also, the appellant did not establish that her weight loss was sudden and unexpected. The panel finds that the ministry was reasonable determining that the appellant's request for a crisis supplement for clothing was not to meet the need for an unexpected expense.

In regards to second part of Section 57 (1) (a) of the EAPWDR - there are no alternate resources available to the family unit to meet an unexpected expense or obtain an item - the panel accepts the evidence that the appellant had unexpected veterinarian bills to pay for her ill cat. However, these bills were dated in 2012, the last being November of 2012, the appellant applied for the crisis supplement approximately 4 months after paying the veterinarian bills. Also, the appellant failed to argue or provide evidence that she attempted to access community resources for clothing prior to the reconsideration decision. The panel finds that the ministry was reasonable determining that the appellant has not established that other resources were not available to meet the need of clothing.

In respect to Section 57 (1) (b) (i), the panel finds that the evidence does not determine that failure to obtain proper fitting clothing items will result in imminent danger to the appellant's health. The panel finds that the ministry's decision stating that there is no evidence establishing that failure to obtain clothing will result in imminent danger to the appellant's physical health was reasonably supported by evidence.

The evidence establishes that none of the criteria of Section 57 (1) (a) and (b) of the EAPWDR have been met. The panel therefore finds that the ministry's decision to deny 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.