

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry's) Reconsideration Decision dated April 15, 2013 which held that the appellant is not eligible for a crisis supplement for clothing pursuant to section 57(1)(a) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) because the requested item is not an unexpected expense or an item unexpectedly needed and the appellant does not have the resources available to obtain the item on his own.

The reconsideration decision also states that the appellant's request does not meet the criteria of EAPWDR section 57(1)(b) as there is no information to establish that the failure to provide the requested item would result in imminent danger to the appellant's 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 and Schedule A

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) The appellant's Request for Reconsideration dated April 3, 2013 (RFR) stating that the appellant has sought out and found part-time work coming in the near future but that he "must" have black dress pants, dress shirts and shoes as required for this position;
- 2) The appellant's second Request for Reconsideration dated April 25, 2013 stating that the appellant has begun working part-time this week, that he has no resources but was able to obtain some black shoes which were handed down to him. The appellant states that his clothing is much too large and this situation is adding stress to his mental state with Tourette Syndrome; and
- 3) Letter to the appellant dated April 15, 2013 advising that his request for a crisis supplement for clothing was denied.

As set out in the reconsideration decision, the ministry states that the appellant initially requested a crisis supplement on March 25, 2013 as he had gradual weight loss, had accessed two second hand clothing stores and required winter appropriate clothing. The ministry notes that the appellant received a crisis supplement of \$100 in March 2012.

In his Notice of Appeal the appellant states that he could not sustain with low/minimal stress levels or find any additional resources for much needed work attire/clothes.

At the request of the appellant and with the consent of both parties, the appeal proceeded by way of a written hearing. Neither party provided further submissions before the hearing.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement for clothing, on the basis that he did not meet the legislated criteria of EAPWDR section 57(1)(a) and (b), was reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant sections of the legislation are as follows:

Crisis supplement

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.

(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.

(BC Reg. 13/2003)

EAPWDR Section 57(1)(a): whether the expense is unexpected or whether the request is required to obtain an item unexpectedly needed

The appellant's position is that he has lost weight, his clothes are too large, and he has obtained part-time employment, requiring work clothes. Initially the appellant stated that he required shoes, dress pants and dress shirts but subsequently advised that he was given a pair of black shoes.

The ministry's position is that the appellant has not provided information to demonstrate that he needs the crisis supplement for clothing to meet an unexpected expense or obtain an item unexpectedly needed, as required by EAPWDR section 57(1)(a). The ministry's position is that a crisis supplement is not a yearly allowance, the appellant's gradual weight loss is not a sudden occurrence that would create an unexpected need but something that occurs over a long period of time and would allow the appellant to anticipate the need for smaller clothing. The ministry also states that weather appropriate clothing is not an unexpected need, but one which may also be reasonably expected. The ministry also states that obtaining employment is not an unexpected event and the appellant's need for appropriate work clothing is not unexpected.

The panel notes that there is no information about the appellant's weight loss to indicate how much weight he has lost and over what period of time. Without any evidence to indicate that the appellant's weight loss was unexpected, the panel finds that the ministry's determination that the weight loss and consequent need for clothing was not unexpected. There is no information to indicate that the appellant's need for winter clothing was unexpected and it is reasonable to anticipate that a person would require winter clothing each year. The panel finds that the ministry was reasonable in determining that the appellant's request for a crisis supplement for winter clothing was not to meet an unexpected expense.

While the ministry's position is that obtaining employment is not an unexpected event and that the appellant's need for appropriate work clothing is not unexpected, the panel finds that as the appellant is in on disability assistance, he would not be expecting to obtain employment and obtaining employment would result in an unexpected need for clothing, if particular work clothes are required. The panel finds that an appellant on disability assistance is in a different position than a recipient of income assistance who is expected to be looking for work, in which case obtaining employment would not be an unexpected need.

At the same time however, in the RFR dated April 3, 2013 the appellant indicates that he has sought out and obtained part-time employment and while there is no information to indicate how long he had been seeking

employment, it is likely that the appellant could have expected that he would have obtained employment if he was looking for work and that he may require work attire. The panel finds that the ministry was reasonable in determining that the appellant's request for a crisis supplement for work clothing was not an unexpected expense.

Based on all of the evidence, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement to meet an unexpected expense or obtain an item unexpectedly as required by this aspect of EAPWDR section 57(1)(a) was reasonable.

Whether resources available

The appellant's position is that he has sought out and found part-time work coming in the near future but that he did not have any resources available to him and could not find any additional resources in order to obtain the much needed work clothes.

The ministry's position is that the appellant has not provided information to establish that he has no resources available to him to obtain clothing on his own. The ministry states that the appellant is in continuous receipt of disability assistance which is intended as a resource to meet basic needs such as food, shelter and clothing, and the appellant has not indicated that he is unable to use his disability assistance to obtain clothing.

The panel notes that although the appellant states he could not find any additional resources to obtain the work clothing he required, he has not provided any information to indicate that his current monthly expenses exceed his disability assistance. As disability assistance is intended to meet basic needs such as food shelter and clothing the information provided does not establish why the appellant was unable to obtain clothing at a second hand or consignment store with his disability assistance. In addition, no information has been provided to indicate why the appellant would require winter appropriate clothing when the request for the crisis supplement for clothing was made on March 25, 2013.

Therefore, the panel finds that the ministry was reasonable in determining that the appellant has not established that he does not have resources available to him to obtain the item on his own, as is required by EAPWDR section 57(1)(a).

EAPWDR section 57(1)(b)(i) - imminent danger to health

The appellant's position is that he needs the crisis supplement for clothing and that the stress of having to wear clothing that is much too large is adding stress to his mental state of Tourette Syndrome.

The ministry's position is that the appellant has not provided any information to establish that failure to obtain clothing will result in imminent danger to the appellant's health.

The panel finds that while it may detrimentally impact the appellant's self-esteem and/or be uncomfortable to wear clothing that is too large, there is no evidence that failure to obtain the clothing will result in imminent danger to the appellant's physical health. The word "imminent" means something is impending or likely to take place at any moment and there is no evidence, such as a medical report from the appellant's physician, to establish any imminent danger to the appellant's physical health. Accordingly, the panel finds that the ministry's determination that the appellant did not meet the criteria of EAPWDR section 57(1)(b)(i) was reasonable.

Conclusion

In conclusion, the panel finds that the ministry's decision to deny the appellant a crisis supplement for clothing because he did not meet the criteria under Section 57(1)(a) and (b) of the EAPWDR was reasonably supported

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by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.