

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated 5th March 2013, which denied the appellant's request for a crisis supplement to cover the cost of clothing.

The ministry found that although the appellant is in receipt of regular income assistance in accordance with Section 4 of the Employment Assistance Act (EAA), the appellant's request did not meet all the legislative requirements of Section 59 (1) of the Employment Assistance Regulation (EAR) as the information provided does not establish that:

- (a) the crisis supplement requested is to meet an unexpected expense or an item unexpectedly needed as set out in Section 59(1)(a);
- (b) the appellant is unable to meet the expense or obtain the item because there are no resources available to the appellant as set out in section 59(1)(a); and
- (c) failure to meet the expense or obtain the item would result in imminent danger to the physical health of the appellant as set out in section 59(1)(b)(i).

## PART D – Relevant Legislation

Employment and Assistance Act (EAA), Section 4

Employment and Assistance Regulation (EAR), Section 59

## PART E – Summary of Facts

With the consent of the parties, the appeal was conducted in writing in accordance with Section 22 (3) (b) of the EAA.

The evidence before the ministry at the time of the reconsideration decision included the following:

1. A document dated 13<sup>th</sup> February 2013 (“Cheque History”), which indicates that the appellant was paid \$235.00 for support and \$375.00 for shelter (aggregate \$610.00) for the month of February 2013; and
2. A Request for Reconsideration dated 21<sup>st</sup> February 2013.

In her request for reconsideration, the appellant submitted that she had injured her back in 2011 and over a period of time she had lost 60 pounds due to her back injury. The appellant stated that she has heavy snow boots, under-garments, socks, shirts, sweaters, skirts and a pair of pants that are too big. She further stated that she does not drive and is always walking, and her back gets really sore from wearing heavy boots. The appellant requested proper shoes or clothing, which would enable her to go to the gym to strengthen her back, get in to better health and get strong enough to get back to work.

In her Notice of Appeal dated 12<sup>th</sup> March 2013, the appellant stated that she has been on welfare since February 2012 due to her bad back and has never requested a clothing allowance in the past; she does not have clothing to keep warm and has sores on her feet; she therefore needs clothing and shoes; she acknowledges that although she receives \$600.00 per month as welfare payments, by the time she pays for her rent, food and bills, she does not have anything left; and she needs help with clothing.

The ministry relied on its reconsideration decision and did not make any submissions prior to the hearing of the appeal.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision, which denied the appellant's request for a crisis supplement to cover the cost of clothing because the appellant is not eligible for a crisis supplement under Section 59 (1) of EAR, is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

The legislation relevant for this appeal is as follows:

### Section 4 of EAA

#### Income assistance and supplements

4. Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

### Section 59 of EAR

#### 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*.
- (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 income 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.

#### **PART F – REASONS FOR DECISION**

The appellant's position is that she has been on welfare since February 2012 and has never requested a clothing allowance in the past. She does not have clothes to keep her warm. She has no runners, but only a pair of heavy snow boots. She does not drive and always walks. This has resulted in sores on her feet and she has not been able to go to the gym to strengthen her back to enable her to get strong enough to go back to work.

The ministry's position is that although the appellant is in receipt of regular income assistance, she is not eligible for a crisis supplement under Section 59 of EAR as she does not meet all the legislative requirements of Section 59 (1).

The ministry notes that the appellant has acknowledged that she has certain items of clothing (other than undergarments) and that she has been going to local churches to obtain articles of clothing needed by her. The ministry further notes that although the appellant has been gradually losing weight since the date of her back injury in February 2011, such weight loss has occurred gradually over an extended period of 12 months, and therefore it is not unexpected. The ministry argues that clothing is a regular ongoing need that may be reasonably anticipated. The ministry further argues that the appellant is eligible to receive approximately \$600.00 in assistance each month, which includes \$235.00 designated as support to meet basic needs, including clothing. The ministry notes that the appellant has attempted to find clothing through local churches, but has not indicated that she has attempted to access any other community resources. Consequently, the ministry has not been able to determine that the supplement requested is to meet an unexpected expense or the cost of items unexpectedly needed. The ministry has also been unable to determine that there are no resources available to meet the clothing needs of the appellant as envisaged under Section 59 (1) (a) of EAR.

The ministry also argues that the information provided by the appellant does not demonstrate that failure to assist her will result in imminent danger to the physical health of the appellant as envisaged under Section 59 (1) (b) of EAR.

The panel finds that in order for the appellant to receive a crisis supplement under Section 59(1) of EAR, she must meet each of the following criteria:

- The first criterion is that the crisis supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed. The panel finds the significant weight loss of 60 pounds was not sudden. It was gradual over a period of 12 months. Therefore the expenses for the items requested by the appellant were not unexpectedly needed. The appellant would have been aware of the gradual physical changes over the 12 month period and could have made efforts to budget for new clothing from her support allowance;
- The second criterion is that the appellant must demonstrate that she is unable to meet the expense or obtain the item because there are no resources available. The panel finds that the appellant has not demonstrated by providing detailed expenses that she has no extra funds to purchase new clothing for her following her weight loss, nor has she indicated any efforts on her part to access the needed items of clothing from any other community resources other than local churches; and
- The third criterion is that failure to obtain the item or meet the expense will result in imminent danger to the physical health of the appellant. The panel notes that the appellant has stated that she has sores on her feet without proper walking shoes. The sore feet have an impact on the physical health of the appellant. However, the panel finds that such sores do not present imminent danger to the physical health of the appellant.

In conclusion, the panel finds that the ministry's decision to deny the appellant's request for a crisis supplement because it did not meet all the legislative requirements of Section 59(1) of EAR was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the

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appellant. The panel therefore confirms the ministry's reconsideration decision.