

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) September 5, 2013 reconsideration decision denying the appellant's request for a crisis supplement for clothing because the minister is not satisfied that the need for shoes is either sudden or unexpected; other community resources are available and support funds are provided by the ministry to obtain clothing; and failure to obtain shoes and clothing will not result in imminent danger to the appellant's physical health as required in section 59 of the Employment and Assistance Regulation.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 59.

## PART E – Summary of Facts

In its reconsideration decision the ministry states that

- the appellant is a single recipient of income assistance with no dependants.
- on July 31, 2013 the appellant requested a crisis supplement for clothing.

In his request for reconsideration dated August 28, 2013 the appellant states that

- he is on assistance.
- from March 2013 - June 2013 he resided on a reserve several hours away from his current town of residence.
- he broke his leg on March 14, 2013.
- his cast was removed early June 2013.
- jailed June 11, 2013.
- left the reserve and lost clothes.
- moved to his current town of residence in July 2013.
- couch surfed with family and friends.
- qualified for social assistance late July 2013.
- stayed with relatives until end of July 2013.
- requested by cousin to leave residence August 1, 2013.
- August 2013: house hunting.

In his Notice of Appeal dated September 17, 2013 the appellant states that

- He was in imminent danger because of breaking his left leg and no proper shoes meant he was at risk to fall.
- He came to his current town of residence due to his need for medical care.
- His clothing was lost because he was unable to retrieve it from the reserve.

At the hearing the appellant stated that on July 31, 2013 he called the toll free number to request a crisis supplement. He said that he was not interviewed properly; the call lasted less than 5 minutes and he had no chance to give any background information. He could have given this information had he not been dealt with hastily. His voice was not heard. He was told that he would receive the ministry's decision on the phone and when he was called he was told that he did not qualify.

The appellant challenged the ministry's statements about the circumstances of his request as written by the ministry in his request for reconsideration:

- He never said that he had to attend to a legal matter and lacked a suitable wardrobe for a court appearance but what he really said was that he had no clothing – it was lost abruptly because of his incarceration. He tried to get his clothes back but he had no luck. He mentioned he had a court appearance but did not mention he needed clothes for this.
- The appellant stated that he was in a cast for 3 months and it was removed in early June contrary to the ministry's statement that he broke his leg 3 months ago.
- The appellant stated further that he did not request \$ 89 for shoes as written in the request for reconsideration by the ministry but made a general request for certain clothing.

- He denied saying that income assistance rates are not adequate to meet his needs but said instead that the amount will not be enough.

When he was released on June 18 from an institution in a large town several hours away from the town where he currently resides he was not able to get his clothing from the reserve.

In the local men's shelter of his current home town he looked for clothes and shoes but could not find anything that was right for his size – he stated he is of average size. He had no money to buy used clothes.

When his cast was removed he had difficulty walking and was near immobility.

He has a note from his doctor prescribing physiotherapy because his leg is not completely healed.

Because of an arrest warrant he traveled from the reserve to the town where he currently resides. He did not expect to be kept in jail, that's why he did not bring any clothes. After his release he made attempts to get clothing. He had exploited all help that was available from family.

The ministry relied on its reconsideration decision.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in his Notice of Appeal and his testimony as being in support of the information that was before the ministry at reconsideration. These statements provide additional details and background regarding the appellant's request for a crisis supplement for clothing.

## PART F – Reasons for Panel Decision

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) September 5, 2013 reconsideration decision denying the appellant's request for a crisis supplement for clothing; specifically, the ministry determined that the appellant's need for clothing and shoes was not unexpected; that community resources and ministry support funds are available to the appellant to obtain clothing; and failure to provide shoes and clothing will not result in imminent danger to the appellant's 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*.
- (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
- .....

The appellant argues that he has not been interviewed properly because he could not convey pertinent information in a short phone call and as a result the initial decision was made hastily.

The panel notes that it is limited to making a decision on the reconsideration decision only and of the reasonableness thereof – the panel does not review the original decision. Furthermore, the appellant had the opportunity to tell his story in detail at his request for reconsideration and at the hearing.

*Unexpected expense or obtain an item unexpectedly needed:*

The appellant argues that when he broke his leg he did not intend to lose the other shoe and as a result the need for new shoes was unexpected. He left his clothes behind on the reserve because he did not expect to be kept in jail.

The ministry argues that the appellant's leg fracture and loss of shoe occurred about 3 months ago and therefore the need for a pair of shoes is not unexpected.

The panel finds that the appellant was aware that he would have to wear a pair of shoes again once his cast was removed, and that he was also aware that his shoes and clothing were back at the reserve. Therefore the panel concludes that the appellant's need for clothing and a pair of shoes was not unexpected pursuant to section 59 (1)(a) EAR.

*No resources available to meet the need:*

The appellant's position is that there were no resources available to him because his attempts to get shoes and clothing after his release failed and he had no money to buy used items. He argues that he had exploited all help that was available from family and could not find anything in his size among the free clothing and shoes that were available.

The ministry argues that it provides support funds for such expenses as food and clothing which would allow the appellant to purchase inexpensive footwear that is available in the thrift stores in the town of his residence, and the appellant has provided no information concerning his attempts to obtain shoes through other resources.

The panel finds that the appellant receives a support allowance towards the purchase of clothing and there is not enough evidence to support the appellant's argument that he had no money and resources available to acquire shoes and clothing according to section 59(1)(a).

*Failure to provide the item will result in imminent danger to the appellant's physical health:*

The appellant argues that failure to provide shoes was resulting in imminent danger to his physical health when his cast was removed and he had to walk around with borrowed flip flops; without proper shoes he had difficulty walking and was at risk to fall.

The ministry argues that failure to provide shoes does not satisfy the criterion of imminent danger to the appellant's physical health; specifically, failure to provide appropriate attire for court appearances does not meet this criterion.

The panel finds that pursuant to section 59(1)(b)(i) there is not enough evidence that the appellant was at risk of falling and endangering his physical health because the ministry did not provide shoes when his cast was removed.

For these reasons the panel finds that the ministry was reasonable in denying the appellant's request for a crisis supplement for clothing. The ministry's decision is confirmed.