



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated August 23, 2013 which held that the appellant is not eligible for a crisis supplement for 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)* because the ministry determined that the appellant's request for the crisis supplement does not meet all three criteria in section 57(1) as the appellant did not provide information to establish that:

1. she requires the clothing supplement to meet an unexpected expense or obtain an item that is unexpectedly needed;
2. she does not have any resources available to meet the clothing expense or obtain the item; and
3. failure to meet the clothing expense or obtain the item will result in imminent danger to her 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

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- Information from the ministry's records that the appellant receives disability assistance as a Person with Disabilities;
- Request for reconsideration signed by the appellant on August 16, 2013;
- Ministry File Note regarding its contact with the appellant for a crisis supplement with entries for January 2, August 12, and August 16, 2013; and January 3, and August 10, 2012; and
- Letter from physiotherapist dated August 21, 2013 discussing the appellant's need for an artificial limb, prosthetic socket, and its effects on her health.

The ministry relied on its reconsideration decision and did not introduce any new evidence. In its file notes, the ministry notes the following with regard to its contacts with the appellant. On January 3, 2012, the file note states that the appellant had an emergency need for clothing due to complications related to foot surgery and \$50 was issued. As well, the August 10, 2012 note indicates that a \$50 crisis supplement was issued for clothing needs to avoid hardship. The appellant stated that she had lost a lot of weight since her leg amputation and due to other costs she was unable to save for clothes. She had recently bought shoes but was still in need of clothing. On January 2, 2013, the appellant stated she was in need of new clothing, had extra costs due to medication expenses, and had no luck with community resources. The ministry issued a \$50 crisis supplement for clothing to prevent undue harm/ danger to the appellant.

On August 12, 2013, the appellant requested another crisis supplement for clothing and when the ministry asked what had happened to the appellant's clothes, the appellant stated that due to amputation her weight has increased and decreased, and she had not been able to find any clothing at a community resource. The ministry advised the appellant that her weight fluctuation is no longer unexpected because she was aware since last year that her weight fluctuates, when she received a clothing crisis supplement for the same reason. The appellant stated that she is entitled to \$100 per year and the ministry advised that a crisis supplement for clothing is not a yearly entitlement and reviewed the criteria including that the supplement must be required to meet an unexpected expense or obtain an item that is unexpectedly needed. The appellant called back, stating that she wanted to appeal the ministry's decision.

The file note of August 16, 2013 indicates that the appellant requested a crisis supplement for food, stating that due to the denial of a supplement for clothing, she had to buy socks and underwear, is now out of food, missed the food bank and already accessed other resources but is still in need of basics.

In her request for reconsideration dated August 16, 2013, the appellant stated that she received her finished (leg) socket in July, 2013; there were adjustments to the previous sockets to get to that point, and times where she could not get the socket on her leg, forcing her back in the wheel chair and making physiotherapy impossible. She added that now that all problems have been dealt with, she is able to attend a rehabilitation centre four days per week. She had to buy her own footwear as it is very important in the life changing process that has been going on since the amputation in January 2012. She wrote that she is hoping that since she is more mobile learning to walk without a gait aid,

her weight will quit fluctuating as much. She states that walking has been a slow process as she suffered an anoxic brain injury in 2012, causing issues with balance as well.

The letter from a physiotherapist dated August 21, 2013 confirmed that the appellant is learning to walk again with an artificial limb. The physiotherapist wrote that she has known the appellant for two years and she describes the process of recovery from amputation where many unforeseen things can occur. She explained that the correct fit of a prosthetic socket is a frustrating and elusive thing. Most of the time the prosthesis fits reasonably comfortably but there are times when fit deteriorates and it becomes very uncomfortable and painful with skin breakdown commonly occurring. The wearing of a socket for an amputee is a day by day issue where mobility, including walking, can be taken away due to socket fit issues. This can result in being unable to wear the prosthesis for days at a time and sometimes for months. The physiotherapist wrote that this scenario has happened to the appellant several times, and during these times body weight can be affected, as well as mood and sleep patterns. Reliance on others increases, as does attendance at prosthetic appointments to solve the problem of prosthetic fit.

In her Notice of Appeal dated August 27, 2013, the appellant states that in January 2013, she ended up in a homeless shelter where only a two bag limit was permitted. In March, she entered into a program which gave her stability. Underwear and socks are something she does not want to get second hand.

The panel finds that the information provided by the appellant in her notice of appeal relates to her economic situation and need for clothing. Therefore, in accordance with section 22(4) of the *Employment and Assistance Act*, the panel admits that information as evidence that is in support of the evidence the ministry had at reconsideration,

The panel makes the following findings of fact:

- the appellant receives disability assistance;
- the appellant's weight has fluctuated since her leg was amputated in January 2012;
- the appellant received crisis supplements for clothing in January 2013, January 2012, and August 2012; and
- the appellant lives in a home operated by a community service agency and clothing resources are available to her.



PART F – Reasons for Panel Decision

The issue to be decided is the reasonableness of the ministry's reconsideration decision dated August 23, 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 of the *EAPWDR* because the appellant did not provide information to establish that:

- she requires the clothing supplement to meet an unexpected expense or obtain an item that is unexpectedly needed;
- she does not have any resources available to meet the clothing expense or obtain the item; and
- and failure to meet the clothing expense or obtain the item will result in imminent danger to her physical health.

The following sections of the legislation apply to the appellant's circumstances in this appeal:

***EAPWDA* Income assistance and supplements:**

Section 5 states that: *Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.*

***EAPWDR* Crisis supplement:**

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

- [REDACTED]
- (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 did not meet any of the requirements for a crisis supplement for clothing in section 57(1) of the EAWPDR. First, the appellant did not provide information that the need for clothing was unexpected or that this was an unexpected need as required by section 57(1)(a). The ministry found that while the appellant's weight increased and decreased due to her leg amputation and the rehabilitation process she faced in learning to walk again, her weight fluctuation at the time of her request for the supplement in August 2013 was not unexpected as it had been occurring since her leg amputation in January 2012.

As to whether the appellant lacked resources to purchase the clothing, as required under section 57(1)(a), the ministry's position is that the appellant did not demonstrate that she lacked resources to purchase clothing as she receives monthly disability assistance to cover ongoing expenses such as clothing. The ministry had also issued \$50 crisis supplements for clothing on three occasions, in 2012 and 2013. In addition, the appellant lives in a home that is operated by a community service agency and there are community resources in her neighbourhood. The ministry also held that there is nothing in the act or regulation to indicate that a clothing supplement is a yearly entitlement.

In terms of the legislative criterion that failure to meet the clothing expense or obtain clothing items would result in imminent danger to the appellant's physical health as set out in section 57(1)(b)(i) of the regulation, the ministry's position is that the appellant did not provide any information to establish imminent danger.

The appellant's position is that in January 2013, she ended up in a homeless shelter where only a two bag limit was permitted. In March, she entered a program that gave her stability, but underwear and socks are something she doesn't want to get second hand. The appellant also submitted that she hopes that her weight will quit fluctuating so much, now that she is more mobile learning to walk after having her leg amputated and going through a long process of adjustment to her (prosthetic leg) socket.

The panel finds that the ministry reasonably determined that the appellant's need for clothing was not unexpected because the ministry's file notes regarding its contact with the appellant clearly indicate that the appellant's weight had been fluctuating since her leg amputation in January 2012. The letter from the appellant's physiotherapist also indicates that body weight can be affected by mobility issues and the appellant has experienced such a scenario several times due to (leg) socket fit issues.

The appellant's evidence in her Notice of Appeal is that she ended up in a homeless shelter where only a two bag limit was permitted; however, she doesn't indicate whether she was unexpectedly without clothing items at the shelter. In addition, the panel notes that the ministry did provide the appellant with crisis supplements when she first experienced weight fluctuations in 2012. By August 2013, however, the panel finds that the ministry reasonably determined that the appellant's weight fluctuations were no longer unexpected.

The panel also finds that the ministry reasonably determined that the appellant did not meet the lack of resources criterion pursuant to section 57(1)(a) because the ministry's file notes indicate that the appellant had already received three clothing crisis supplements since January 2012. Moreover, the evidence indicates that the appellant receives monthly disability payments, lives in a home that is operated by a community service agency, and clothing resources are available in her neighbourhood.

The panel further finds that the ministry reasonably determined that the appellant does not meet the criterion for the crisis supplement under section 57(1)(b)(i) of the EAPWDR because the ministry reasonably found that the appellant provided no evidence of imminent danger to her physical health if she did not receive the crisis supplement to meet the expense or obtain clothing items. The evidence in the appellant's Request for Reconsideration and the letter from the appellant's physiotherapist indicate that's the appellant's physical health issues are an ongoing process as a result of her leg amputation, fitting her prosthetic socket and learning to walk again.

In conclusion, the panel finds that the ministry's decision denying the appellant's request for a crisis supplement for clothing was reasonably supported by the evidence and was a reasonable application of the applicable legislation in the appellant's circumstances. The panel therefore confirms the ministry's reconsideration decision.