

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision of September 4th, 2013 wherein the ministry denied the appellant a crisis supplement for clothing under section 57 Employment and Assistance For Persons with Disabilities Regulation (EAPWDR) because he did not meet the legislated criteria set out in section 57(1) EAPWDR; that he did not have resources available to the family unit as set out in section 57(1)(a) EAPWDR.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 57(1)(b) EAPWDR.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Act (EAPDWA), section 5
Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Letter from appellant to ministry dated July 22, 2013 requesting a clothing allowance due to weight loss;
- Pre-formatted form (author unknown) completed by the appellant's physician outlining what the appellant experiences on a daily basis as a result of his medical condition and the result of the noted restrictions;
- Breakdown of the appellant's monthly expenses totaling \$925;
- Request for Reconsideration dated August 22nd, 2013

The appellant is a recipient of disability assistance and sent a fax to the ministry requesting a clothing allowance due to weight loss from diabetes. The ministry reviewed the appellant's file and denied the request because the appellant did not meet all the legislated criteria. The ministry was satisfied that the appellant is eligible for disability assistance or hardship assistance; that the appellant provided sufficient information to establish that he requires a crisis supplement to meet an unexpected expense, or obtain an item unexpected needed although clothing is not usually an unexpected expense. The minister acknowledged that the suddenness of the weight loss was unexpected. The minister does not consider that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit or removal of a child under the *Child, Family and Community Service Act*. The ministry was also not satisfied that the appellant does not have other resources available to him to obtain the clothing. The appellant stated that he only has \$200 a month left after his rent is paid. A ministry review of the appellant's file showed that his rent is \$400 per month and his monthly income is \$941.42 (Canada Pension is \$743.65 and assistance \$197.77).

In the Notice of Appeal the appellant stated that the ministry misinterpreted the facts.

On August 22nd, 2013 the ministry received the appellant's Request for Reconsideration.

In the appellant's written submission he provided the following documents:

1. 3 page submission prepared by the appellant's advocate;
2. Letter from ministry to appellant dated September 13th, 2013 Special Transportation Subsidy;
3. Appellant's application for Special Transportation Subsidy;
4. Letter of support dated September 14th, 2013 stating she is unable to financially help her friend;
5. Letter of support dated September 15th, 2013 stating she is unable to financially help her brother;
6. Pre-formatted form dated August 15th, 2013 completed by appellant's physician.

The panel finds the document numbered 1 is a submission prepared by the appellant's advocate.

The panel finds the documents numbered 2 to 6 inclusive contain information relevant to the issue of resources under appeal and that these documents therefore contain information that is in support of the information and record that was before the ministry at the time the decision was made and therefore are admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

The ministry relied on its reconsideration decision and submitted no new information.

In the Notice of Appeal the appellant stated that the ministry has misrepresented the facts. The appellant submits that he has suffered significant weight loss – 25 lbs. in one month; suffers from severe pain in his feet due to severe diabetes; that he must budget for laundry every month due to excessive sweating caused by his medical conditions and must use a taxi to transport his groceries as he cannot carry them to and from bus. The appellant submits that he has no other resources available to him. He budgets to cover his rent, phone bill,

food, laundry, lancets and taxi costs and does not rely on crisis supplements. The appellant submits that the ministry's reasoning that he should apply for other supplements – special transportation subsidy and medical supplement to cover his taxi and lancet expenses - to deny his request for a crisis supplement for clothing was not reasonable. The appellant submitted that his request for a special transportation subsidy was denied. The appellant submitted a written letter from a friend and a letter from a family member stating they were not able to financially assist the appellant because of their own financial difficulties. The appellant submitted that he only has a few articles of clothing that are very loose and baggy due to the unexpected weight loss. The appellant submitted that failure by the ministry to provide the crisis supplement for clothing will result in imminent danger to his health because he will not have properly fitting clothing, and moreover, that he does not have any warm clothing that will be sufficient for him to survive the upcoming colder months of fall and winter.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant a crisis supplement for clothing under section 57 EAPWDR because he did not meet all the legislated criteria set out in section 57(1)(a) EAPWDR; that there were no resources available to the family unit.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 57(1)(b) EAPWDR.

The legislation considered: EAPWDR

Section 57

- (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*.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (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.

In the reconsideration the ministry agreed that the appellant met the first part of the criteria – unexpected expense – set out in section 57(1)(a) EAPWDR but did not meet the criteria that he was unable to obtain the item because there were no resources available to the family unit.

In reference to the ministry's determination that there were no resources available to the family unit –

The ministry argued the appellant receives monthly disability assistance that is intended to be a resource to meet basic needs. The ministry argued that the appellant has resources available as indicated in his budget; however rather than allocating funds for clothing the appellant chooses to allocate these funds elsewhere. The ministry also argued there is no record the appellant has applied for other supplements, i.e. special transportation subsidy to assist with taxi costs or health supplement to assist with medical supplies or sought the assistance from friends or family to meet his need.

The appellant argued that he has no other resources available to him; that he budgets his money very well to cover his monthly expenses but the weight loss was unexpected and he has no money to buy new clothes as his other clothes no longer fit him. The appellant argued that the ministry is not being reasonable when they deny his request for a supplement relying on the fact he has not applied for other supplements. The appellant argued the legislation does not require him to have applied for other supplements at the time he applied for his crisis supplement. The appellant stated when his request was denied he did apply for a Special Transportation Subsidy and that application has since been denied too.

The panel finds the evidence supports the appellant's position that he does not have resources available to meet the unexpected expense because he did provide a detailed budget which indicates that he does not have

any disposable income and he also provided two letters of support indicating financial assistance could not be provided to the appellant. The panel did not accept the ministry's argument that he should have applied for other supplements.

The panel finds the ministry's decision to determine that the appellant had resources available to meet the unexpected expense (for clothing) was not reasonable.

In reference to section 57(1)(b) EAPWDR – the minister considers that failure to meet the expense or obtain the item unexpectedly needed will result in imminent danger to the physical health of any person in the family unit, or the removal of a child under *Child, Family and Community Service Act*.

The appellant argued that he only has a few articles of clothing that are very loose and baggy that he does not have any warm clothing that will be sufficient for him to survive the upcoming colder months of fall and winter and without this clothing his health will be in imminent danger.

The ministry argued that although the appellant has medical issues and purchases some medical supplies to assist him, the appellant has not provided information to establish that failure by the ministry to provide a crisis supplement for clothing will result in imminent danger to the physical health of the appellant.

The panel finds that although the appellant's clothing may be baggy in appearance and embarrassing to the appellant to wear, the evidence does not establish that the appellant's physical health was in imminent danger if the ministry did not provide him with a crisis supplement for clothing.

The panel also finds the appellant is a single recipient of disability assistance so the legislation regarding the removal of children is not applicable to this appeal.

The panel finds that the ministry's decision to determine that failure to meet the expense or obtain the item unexpectedly needed would not result in the imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* as stated in section 57(1)(b) EAPWDR was reasonable.

Section 57(1) EAPWDR states that for the ministry to provide a crisis supplement to or for a family unit that the family unit must meet all criteria set out in the legislation. The panel finds the appellant met the criteria set out in section 57(1)(a) EAPWDR but did not meet the criteria set out in section 57(1)(b) EAPWDR.

The panel finds that the ministry reasonably determined the appellant was not eligible to receive a crisis supplement for clothing and therefore finds the ministry's decision to deny the appellant's application on July 24th, 2013 for a crisis supplement for clothing was reasonable.

Therefore, the Panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the Employment and Assistance Act.