

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) reconsideration decision dated August 23, 2013 which held that the Appellant was not eligible for a crisis supplement for clothing because he did not meet the criteria set out in section 57 of the *Employment and Assistance for Persons with Disabilities Regulation* (the “EAPWDR”).

The Ministry held that the Appellant failed to provide information to establish the Appellant could not obtain the clothing as there are no resources available to him and that the failure to obtain the clothing will result in imminent danger to the Appellant’s physical health.

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Act*, section 5  
*Employment and Assistance for Persons with Disabilities Regulation*, section 57

## PART E – Summary of Facts

The evidence before the Ministry at reconsideration was as follows:

1. Letter dated August 15, 2013 from the Appellant's Advocate (the "Advocate") to the Ministry (the "Advocate Letter")

The Advocate explained to the Ministry that the Appellant has a condition that requires him to take medication with side effects of increased appetite. The Appellant has consequently gained a significant amount of weight within the last two months and his pant size has gone from size 32 to size 38 in a two month period.

The Advocate explained that the Appellant has gone to various agencies that offer free clothing but stated that the Appellant's large size has prevented him from finding clothing that fits his new size.

The appellant provided the following additional documentary evidence:

1. Bank statement dated August 1, 2013 to September 25, 2013 (the "Statement") belonging to the Appellant showing the activity in the Appellant's account for the month of August and September.

The Statement showed the Appellant's activities with two deposits in the amount of \$361.42 being deposited on August 28, 2013 and on September 26, 2013. There was also withdraws for two bill payments in the amount of \$60.00 and \$32.26 debited for the month of August and September.

2. Medical note dated September 24, 2013 from the Appellant's physician (the "Medical Note") which stated that the physician recommended a clothing allowance for medical reasons.
3. Prescription Summary for the Appellant's medication (the "Prescription") listing the side effects of the medication the Appellant is taking which included but are not limited to "significant weight gain."
4. Letter dated September 25, 2013 from the Advocate to the Ministry (the "Advocate Letter 2")

The Advocate reiterated that the Appellant has gained significant weight in the past two months as a result of the type of medication he is taking. The Advocate noted that the medication stated in the Advocate Letter was inaccurate and corrected the type of medication the Appellant was taking and provided the proper prescription summary.

The Advocate stated that the Appellant does not have any money left after paying the monthly bills. Once his rent is paid, the Appellant has \$361.42 for the remaining bills. The monthly bills, according to the Advocate, total approximately \$175.00 which leaves the Appellant a total of \$46.61 to spend on his toiletries, groceries and extracurricular activities

The Advocate further stated that the Appellant needs clothing as the weather temperatures in his area can reach minus 40 Celsius.

The panel finds that the additional documentary evidence provided by the Appellant clarified his situation and was admissible under section 22(4) of the EAA as it was in support of the records before the Ministry at reconsideration.

## PART F – Reasons for Panel Decision

The issue whether the Ministry's decision to deny the Appellant a crisis supplement for clothing because he failed to meet all the criteria set out in section 57 of the EAWPDR is reasonably supported by the evidence or is a reasonable application of the applicable legislation in the circumstances of the Appellant.

The legislation provides that the Ministry may provide a crisis supplement to a recipient of disability assistance if the recipient requires the supplement to obtain an item that is unexpectedly needed and the recipient is unable to meet the expense or obtain the item because there are no resources available to the recipient. The Ministry must also consider that the failure to obtain the item will result in an imminent danger to the physical health of the recipient.

Section 57 of the EAWPDR states the following:

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

The Ministry conceded that the Appellant's need for clothing was an unexpected need due to his excessive weight gain pursuant to section 57(1)(a) EAWPDR, but argued that the Appellant was not eligible for the crisis supplement as he neither provided confirmation or proof to establish the Appellant could not obtain the clothing as there are no resources available to him nor that the failure to obtain the clothing will result in an imminent danger to his physical health pursuant to section 57(1)(a)(b) of the EAWPDR.

### ***Did the Appellant have resources available to him to pay for his own clothing?***

In determining that the Appellant did not provide confirmation that he had no resources available to him to obtain clothing pursuant to section 57(1)(a) of the EAWPDR, the Ministry concluded:

... you have not provided any information to establish why you were unable to use your disability assistance to replace your clothing items over the two month period in which you gained weight.

The Ministry argued that the Appellant should have used his disability assistance or "monthly allowance" to replace his clothing stating that after the Appellant's rent was paid he was left with a total of \$361.42 and that this remaining monthly allowance was "intended for ongoing items of need, including periodic payment of clothing items."

The Ministry added that there are several second-hand stores in the Appellant's area and therefore found it reasonable that the Appellant's monthly allowance would be able to purchase and replenish his own clothing.

The Appellant argued that he did not have money remaining after paying his monthly bills to spend on

clothing and that he was not able to go to used clothing stores as the stores as the stores did not give away or sell his particular size.

The Appellant submitted his account history for the month of August 2013 and September 2013 and claimed that after the monthly bills were paid (which included a telus bill in the amount of \$80.00, a BC Hydro in the amount of \$32.28 and a second Telus bill in the amount of \$60.00) he was left with \$46.61 to spend on toiletries, groceries and extracurricular activities and stated that it was "a struggle to save \$100.00 over a two month period."

On review of the Statement, it appears there were only two "bill payments" that were debited from the Appellant's account that totaled \$82.28 in the month of August and again in the month of September which would leave the appellant with \$279.14 not \$46.61 to spend on his monthly incidentals, including clothing. It seems reasonable that of the \$279.14 the Appellant ought to be able to use a portion of this money to replenish his wardrobe at one of the local used clothing stores in his area.

The panel therefore finds the Ministry's determination that the Appellant has not provided information to establish why the Appellant was not able use his disability assistance to replace his clothing was reasonably supported by the evidence.

***Will the failure to obtain clothing result in the imminent danger to the Appellant's physical health?***

The Ministry argued that there was no information to establish that the failure to obtain the crisis supplement for clothing will result in imminent danger to the Appellant's physical health pursuant to section 57(1)(b)(i) and noted the following:

The Ministry finds that information has not been provided to establish that failure to obtain the clothing items will result in imminent danger to your physical health. You were clothed when you attended the office on August 8, 2013. When asked why you needed a crisis supplement for clothing, you stated that your clothes were "wearing out". In her letter, your advocate states that your clothes are "too small" and need to be replaced. You and your advocate have not provided any information to establish that failure to obtain the clothing items will result in imminent danger to your physical health.

The Appellant argued that the failure to obtain new clothing will result in imminent danger to his health as the climate and winter temperatures can drop to minus 40 and that "[p]roper clothing is needed in cold climates to maintain proper health."

The Appellant further argued that not being able to properly cloth himself in the cold temperatures will additionally affect his arthritis.

It is fair to assume that winter clothing is essential for the wellbeing and safety of those who are made to endure sub-zero temperatures. Without proper clothing it is likely that this would result in imminent danger to one's physical health. As we previously discussed, however, the panel found the Ministry was reasonable in their finding that the Appellant has his own resources to replace his clothing which eliminates any risk that may result in imminent danger to his health.

The panel therefore finds the Ministry's determination that the Appellant has not provided information to establish that the failure to obtain the clothing will result in imminent danger to his physical health was reasonably supported by the evidence.

The issue whether the Ministry's decision to deny the Appellant a crisis supplement for clothing

because the Appellant neither provided confirmation or proof to establish the Appellant could not afford to replace his own clothing with the money he receives from his disability nor that the failure to obtain the clothing will result in an imminent danger to his physical health is reasonably supported by the evidence.

The panel therefore finds the Ministry's determination that the Appellant is denied a crisis supplement for clothing was reasonably supported by the evidence and confirms the decision.