

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry's) reconsideration decision dated September 26, 2013 wherein the ministry denied the appellant a crisis supplement for clothing under section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because she did not meet the legislated criteria set out in EAPWDR section 57(1) (a) which provides that the minister may provide a crisis supplement if the supplement was required to meet an unexpected expense or to obtain an item unexpectedly needed and the applicant is unable to meet the expense or obtain the item because there were no resources available.

Further, the ministry determined that failure by the ministry to meet the expense or obtain the item 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) of the EAPWDR.

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

Evidence

The ministry outlined the following evidence:

- that the appellant is currently receiving assistance as a single person since July 1999;
- that the appellant has resided in this residence since July 2012;
- that on September 12, 2013 the appellant requested a crisis supplement for clothing and stated that her clothing was stolen from the laundry room because someone took them out of the machine when she was not there, that she had informed the manager, and that she went to local resources and they could not offer her any free clothing only low cost which she cannot afford;
- that the appellant received a crisis supplement for clothing in September 2011 and September 2012;
- that the appellant requested the supplement for clothing in September 2012 because her clothes were stolen from the laundry facilities when she was not there, that she had tried community resources which did not have any clothes that fit her and she had no money to pay for the items; and
- two Cheque History (Query) statements dated September 12, 2013 which outline the appellant's monthly benefits, total allowances and deductions.

The appellant in the Request for Reconsideration Decision section 3 outlined that her clothing was stolen, that this leaves her with no clothes "due to medical conditions" and that she is not able to buy clothes.

Additional Evidence

On October 25, 2013 the appellant provided additional written evidence as follows:

- that the ministry denied a crisis supplement for the appellant because the request is too similar to the request last year in September 2012 and that the ministry found that there was no imminent threat to physical health;
- that the appellant has been on Persons With Disability benefits since July 1999 for arthritis of the spine, sympathetic nerve dystrophy, fibromyalgia, degenerative disc disorder, asthma, bipolar and PTSD;
- that the appellant currently owns one pair of pants and one sweater of which are worn out and no pairs of underwear; that she was doing laundry in the common facility of her apartment building and returned to find her clothing missing and that the appellant has made many attempts to find other resources to replace clothing but has not been successful;
- that the appellant has not applied for a crisis supplement in the last 12 months; and
- that the appellant did speak to the police who stated that there is nothing that they could do about it since there were no witnesses or cameras present.

On October 29, 2013 the ministry provided additional written evidence as follows:

- that the need for clothing due to wearing out cannot be considered unexpected;
- that monthly support funds are intended for ongoing expenses such as clothing; and
- that the phrase "will result in imminent danger" implies the appellant's physical health would certainly, directly, and promptly be put in danger.

The panel determined that the additional written evidence from the appellant and the ministry were admissible under section 22 (4) of the EAA because this information was in support of information that was before the ministry at the time of its reconsideration decision.

PART F – REASONS FOR PANEL DECISION

Issue to be Decided

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 of the EAPWDR because she did not meet the legislated criteria set out in section 57(1) (a) which provides that the minister may provide a crisis supplement if the supplement was required to meet an unexpected expense or to obtain an item unexpectedly needed and the applicant is unable to meet the expense or obtain the item because there were no resources available.

Further, the ministry determined that failure by the ministry to meet the expense or obtain the item 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) of the EAPWDR.

Legislation

The applicable EAPWR legislation is as follows:

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.

Ministry's Position

The ministry argues that the appellant did not provide information to establish the appellant requires a crisis supplement to meet an unexpected item or obtain an item unexpectedly needed nor did she provide any details about the items she states were stolen. Without any additional evidence, the ministry argues that it is unlikely that the appellant had an unexpected need on the same month for three years and that it is difficult to accept that there was an unexpected need. Also that when considering whether need is unexpected since the same incident of theft occurred last year it would not be unexpected for clothing to go missing while unattended. The minister's position is that the need for clothing due to wearing out cannot be considered unexpected and that clothing is an ongoing expense and it is expected that items will need to be purchased over time.

The ministry argues that the appellant did not provide information to establish she had no resources available to her to obtain clothing on her own. The ministry notes that the appellant receives monthly assistance which is intended for ongoing expenses such as clothing. She received her September cheque and August cash and her shelter payment was sent on to the appropriate location. Also, that while the appellant may not have found sufficient free clothing, there are many low-cost resources available.

The ministry argues that the appellant did not provide information to establish that failure to obtain new clothes will result in imminent danger to her physical health. It is the minister's position that the phrase "will result in imminent danger" in the legislation clearly implies the appellant's physical health would certainly, directly and promptly be put in danger; that the possibility of infrequent washing leading to unhygienic conditions and possible infection or illness does not meet the criteria for "imminent danger" as it is a possible sequence of events; and that the possibility of the appellant choosing to steal other people's clothing, getting caught, being evicted and becoming homeless is not a direct result of failure to obtain clothing. The ministry finds that the legislative criteria have not been met and that the appellant is not eligible for the requested clothing supplement.

Appellant's Position

The appellant argues that the need is unexpected because the appellant lives in an apartment building with common laundry facility and she is unable to stay in the room during the one hour laundry cycle, that she returns to the room within the hour to retrieve her clothes or change over to the dryer, and that she did not expect that her clothing would be stolen given her diligence in returning to the laundry room. The appellant also argues that the appellant did not have other resources available as she has no money to purchase any new clothing and no family to assist with this expense and that she has tried to request clothing from community resources but has not been successful.

The appellant argues that the lack of clothing may result in less frequent washing leading to unhygienic conditions and that this may result in possible infection and subsequent illness; that the appellant's disability is worsened by not having adequate clothing by putting her immune system at risk; that she needs underwear in order to have proper hygiene as a woman with monthly menstrual cycles; and that perhaps this is a systemic issue that others also face where being denied a crisis supplement for clothing will leave the appellant the only option of taking other people's clothing from the laundry room which may lead to her being caught, which may result in a criminal record or an eviction from her home leading to homelessness and the inability to ever be employed or volunteer.

Panel Decision

Under Section 57 (1) of the EAPWDR the legislation provides that a crisis supplement may only be provided to an appellant if all three of the following eligibility criteria are met:

- Section 57 (a) – to meet an unexpected expense or obtain an item unexpectedly needed, and
- Section 57 (a) – there are no resources available, and
- Section 57 (b) - if failure to meet the expense or obtain the item will result in imminent danger to the physical health.

Since the appellant is a single recipient of disability assistance the legislation regarding the removal of children is not applicable to this

Under the EAPWD Section 57 (a) the minister may provide a crisis supplement to eligible person if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The ministry argues that the appellant did not provide information to establish the appellant requires a crisis supplement to meet an unexpected item or obtain an item unexpectedly, that wearing out clothing cannot be considered unexpected for laundry, that it is an ongoing expense and it is expected that items will need to be purchased. Also that when considering whether need is unexpected that the same incident of theft occurred last year it would not be unexpected to go missing while unattended. The appellant argues that the need is unexpected because she uses the common laundry room in her apartment building and that she did not expect that her clothing would be stolen given her diligence in returning to the laundry room.

The panel finds that clothing is an ongoing expected expense (not an unexpected expense) and not unexpectedly needed as it is expected that clothing items will need to be purchased from the income assistance provided. The panel also finds that the appellant did not provide information to establish that she requires a crisis supplement to meet an unexpected item or obtain an item unexpectedly needed. The panel therefore finds the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant.

Under Section 57 (a) of the EAPWD the minister may provide a crisis supplement if unable to meet the expense or obtain the item because there are no resources available to the family unit. The ministry argues that the appellant did not provide information to establish she had no resources available to her to obtain clothing on her own. The appellant received her September funds of which a portion could be used for clothing and her shelter payment was sent on to the appropriate location. The appellant argues that she did not have other resources available as she has no money and no family to assist with this expense.

The panel finds that the appellant did receive her September income assistance and did not provide information to establish she had no resources available to her to obtain clothing on her own. The panel therefore finds the ministry decision was a reasonable application of the applicable enactment in the circumstances of the appellant.

Under Section 57 (b) of the EAPWD the minister may provide a crisis supplement if 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. The ministry argues that the appellant did not provide information to establish that failure to obtain new clothes will result in imminent danger to her physical health and that the possibility of infrequent washing leading to unhygienic conditions and possible infection or illness does not meet the criteria for "imminent danger" as it is a possible sequence of events. Also the ministry interprets the phrase "will result in imminent danger" in the legislation such that "the appellant's physical health would certainly, directly and promptly be put in danger." The appellant argues that the lack of clothing may lead to unhygienic conditions and that this may result in possible infection, illness, putting her immune system at risk.

The panel finds that the ministry interpretation of the phrase "will result in imminent danger" was a reasonable interpretation related to these matters and in in these circumstances. The panel finds that the appellant did not provide information to establish that failure to obtain new clothes will result in imminent danger to her physical health was a reasonable application of the applicable enactment in the circumstances of the appellant.

Under Section 57(1) of the 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 that the legislative criteria of EAPWDR Section 57 (1) (a) and (b) have not been met and that the appellant is not eligible for the requested clothing supplement. 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 for a crisis supplement for clothing was reasonable. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(a) and section 24(2)(a) of the Employment and Assistance Act.