



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated November 29, 2013, which denied the appellant a crisis supplement for clothing. The ministry relied upon section 59 of the Employment and Assistance Regulation (EAR) and specifically determined that: (a) the crisis supplement was not required to meet an unexpected expense, or to obtain an item unexpectedly needed; (b) information was not provided to establish that the appellant had no resources available to her to obtain the clothing on her own; and (c) information had not been provided to establish that failure to obtain the clothing will result in imminent danger to the appellant’s physical health.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) –section 4
Employment and Assistance Regulation (EAR) –section 59

PART E – Summary of Facts

The following information and records were before the ministry at the time of the reconsideration:

1. A document titled "FB/NCB Information (Query)" dated November 14, 2013 indicating that the appellant is entitled to \$185.08 NCB for the month of November 2013;
2. A document entitled "Cheque Allowance and Deductions (Query)" dated November 14, 2013 indicating that a cheque number 3751171 for \$185.08 was issued to the appellant on October 1, 2013 as "FB Temp Top-up";
3. A document entitled "Cheque Allowance and Deductions (Query)" dated November 14, 2013 indicating that a cheque number 37521162 for \$185.08 was issued to the appellant on October 1, 2013 as "FB Temp Top-up";
4. A document entitled "Cheque History (Query)" dated November 14, 2013 indicating that the appellant was entitled to \$1188.58 respectively for (a) support (\$423.58), (b) shelter (\$570.00) and (c) CIC Temp Abs (\$195.00) less a deduction of \$695.00 (for Admin Comp and Repayments). This document also makes reference to a cheque number 3752117 for \$185.08 and cheque number 3753244 for \$40.00, with the appellant being the "payee" for both the Cheques; and describes the payments as "Benefits" for the month of October 2013;
5. A document entitled "Cheque History (Query)" dated November 14, 2013 indicating that the appellant was entitled to \$1188.58 respectively for (a) support (\$423.58), (b) shelter (\$570.00) and (c) CIC Temp Abs (\$195.00) less a deduction of \$695.00 (for Admin Comp and Repayments). This document also makes reference to a cheque number 0929786 for \$493.58 (payee: the appellant), a cheque number 4633964 for \$675.00 (payee: an individual other than the appellant), and a cheque number 3752116 for \$185.08 (payee: the appellant); and describes the payments as "Benefit" for the month of October 2013;
6. A document entitled "Cheque History (Query)" dated November 14, 2013 indicating that the appellant was entitled to \$1188.58 respectively for (a) support (\$423.58), (b) shelter (\$570.00) and (c) CIC Temp Abs (\$195.00) less a deduction of \$695.00 (for Admin Comp and Repayments). This document also makes reference to a cheque number 1014692 for \$493.58 (payee: the appellant) and a cheque number 4750667 for \$675.00 (payee: an individual other than the appellant); and describes the payments as "Benefit" for the month of November 2013;
7. Three ministry file notes relating to the appellant dated November 12, 2013 stating that, among other things, states that: (a) the appellant is asking for "crisis clothing" for winter for herself and her child; (b) the appellant considers the expense to be unexpected as two other children sometimes come over to her place and she has to spend her money for them; (c) the appellant was informed by the ministry that the appellant knows that she has the other kids sometimes and therefore she should budget for that; (d) the appellant has a history of crisis given to her almost every month for this past year, showing a pattern of reliance; (e) the appellant was told to budget and contact community resources; (f) the appellant agreed to contact community resources; (g) the appellant returned on the same day and requested clothing for herself and her son; (h) the ministry called the appellant and indicated that it would look at issuing clothing

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for herself and her son and that a cheque would be available at 2 pm on that day; and (i) when the appellant came back on the same day to pick up her cheque, she was informed by the ministry that her request was denied and that her request for clothing as a result of the change in the season was not an unexpected event;

8. One ministry note relating to the appellant dated November 14, 2013 stating that, among other things that: (a) the appellant was denied a crisis supplement for winter clothing for herself and her son as the request did not meet the criteria specified in section 59 of the EAR; (b) season changing and children growing are not unexpected; (c) the appellant had received 2 \$185.00 top up Cheques in October; (d) the appellant did not try to access other resources; and (e) it has not been demonstrated that failure to assist would result in imminent danger to their physical health;
9. Section 3 of the Request for Reconsideration Form dated November 18, 2013, completed by a ministry worker, which, among other things, states that: (a) the appellant is afraid that her child (son) will get removed as he does not have proper clothes and his dad does not help with child support and owes the appellant back support amounting to \$9000.00; (b) the appellant's son needs proper clothes as he is a teenager and "picky"; (c) the appellant does not want her son "picked on" at school or cause more issues; (d) the appellant's other son has been visiting her three week-ends in a row and the she has to feed him as well; (e) that is where her money is spent and the appellant does not have extra money to buy clothes; and (f) the appellant is entitled to a clothing allowance.

Subsequent to the date of reconsideration, a Notice of Appeal dated December 12, 2013 filed by the appellant states that: (a) the appellant and her son are in real need of some winter clothes and that both of them have been sick; (b) the appellant is not receiving child support from her son's father; the appellant has her other son 4 days a week and she does not get any help with that; (c) her sons are teenagers and eat a lot, and that is where her extra money goes; and (d) the appellant cannot afford to go across town for cheap clothing; and (e) the appellant is asking for a clothing allowance so that they can keep warm and her son can return to school; her son was not going to school because he did not have warm winter clothes.

At the hearing, the appellant stated that she has one of her sons living with her for whom she is receiving support from the ministry and, since September 2013, her other son also lives with her for 4 days per week. She does not, and likely will not, receive support for her other son until July 2014. Her husband owes her a large sum of child support money and recently offered to pay her only a partial amount in respect thereof. The appellant declined to accept this offer from her husband and is continuing to pursue her claim against him, which will come up before the courts in May 2014. The appellant has also received financial support from her parents and currently owes them a large sum of money. The appellant has requested a "clothing allowance" to enable her and her son to keep warm through the winter season and also so that her son can return to his school with proper clothing. The appellant's sons are young growing teenagers and eat a lot and therefore all her assistance, over and above her shelter cost of \$675.00, goes towards food for her and her children and the cost of her cell phone. She also does not have enough money to go across town to look for winter clothing from community resources, or pay for the clothing, and often, the community resources do not have clothing that is suitable for teenagers.

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The ministry stated that the issue in this appeal is the appellant's application for an emergency crisis supplement, which is meant for only an "*unforeseen crisis*". Clothing for winter months is an ongoing expense, which should be met from the support allowance that is being provided to the appellant by the ministry. At the time of the appellant's request for the crisis supplement, such support included \$1088.00 (for food and shelter), \$304.00 as child tax benefit/family bonus, and two family bonus top-up cheques of \$188.58 each (total \$370.16). This support is meant to be used for the purchase of clothing. There is also no annual allowance for clothing pursuant to the relevant legislation. The appellant's need for winter clothing is not an "*unexpected expense*" or items "*unexpectedly needed*".

Secondly, the ministry stated that the appellant has the financial resources to meet the need for winter clothing and she also has access to numerous community resources available in the district where she resides. The ministry further stated that there was no evidence before the ministry at the time of reconsideration to indicate that the appellant had exhausted all resources to find the type of clothing she needed, and there was also no evidence that the failure to obtain such clothing would result in imminent danger to the physical health of the appellant.

Based on the foregoing, the panel makes the following findings of fact:

1. The need for winter clothing is an ongoing annual need; and
2. The appellant has access to financial resources and there are community resources in the district where she resides.



PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision to deny the appellant's request for a crisis supplement for clothing was reasonably supported by evidence, or a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry determined that the appellant was not eligible to receive a crisis supplement under section 59 of the Employment and Assistance Regulation as: (a) the supplement was not required to meet an unexpected expense, or to obtain an item unexpectedly needed; (b) information was not provided to establish that the appellant had no resources available to her to obtain the clothing on her own; and (c) information had not been provided to establish that failure to obtain the clothing will result in imminent danger to the appellant's physical health.

In arriving at its reconsideration decision, the ministry relied upon the following legislation:

Employment and Assistance Act

Income assistance and supplements

4. Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Employment assistance Regulation

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, and

(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.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of income assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

(B.C. Reg. 12/2003)

The appellant's position is that she needs winter clothing for herself and her son, as the income support that she receives is used up to meet her shelter costs, the cost of food to feed her two sons and the cost of her cell phone. She has custody of one of her sons and the other son has been living with her 4 days a week since September 2013. As they are growing children, they consume a lot of food and she has little or no money left after meeting her grocery bills to go across town to seek support from community resources or purchase clothing at thrift shops. Her son's father is significantly behind in payment of child support to her and she has also borrowed a lot of money from her parents to support herself and her children. She is entitled to an annual "clothing allowance" and she needs it to obtain winter clothing for herself and her son to enable him to return to school.

The ministry's position is that a crisis supplement is generally provided in case of an emergency if the

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expense is unforeseen. The need for winter clothing is not an unforeseen expense and therefore not an "*unexpected expense*" or items "*unexpectedly needed*", as required under the relevant legislation. The financial supports provided by the ministry to the appellant (including the child support and the top-up family bonuses) are financial resources available to the appellant to meet the ongoing need for winter clothing. Furthermore, there are numerous community resources available to the appellant in the district where she resides. With regard to the criterion of "*imminent danger to physical health*", the ministry position is that there is no evidence of such danger as the appellant is not homeless or needs to be hospitalized due to failure to obtain the winter clothing requested by the appellant, and there was no other specific information that indicates that failure to obtain winter clothing would result in imminent danger to the appellant's physical health.

Section 4 of the EAA empowers the minister to provide income assistance or a supplement to a family unit that is eligible for it. The eligibility criteria are set out in section 59(1)(a) of the EAR, which among other things, provides that a crisis supplement could be provided if a family unit requires the supplement to meet an "*unexpected expense*" or to "*obtain an item unexpectedly needed*" and there are "*no resources available to the family unit*" to meet the expense or to obtain the item. An additional requirement of the relevant legislation [section 59(1)(b)] is that the minister must be satisfied that failure to meet the expense or obtain the item will result in "*imminent danger to the physical health*" of any person of the family unit. Each of the said three criteria is discussed in detail below by the panel.

The first criterion, prescribed under the first part of section 59(1)(a) of EAR, is whether the crisis supplement for winter clothing (as requested by the appellant for herself and her son), is an "*unexpected expense*" or an "*item unexpectedly needed*". In the present case, the panel notes that the appellant's request is for winter clothing for herself and her son and that her son is a growing teenager. The panel further notes that there is no specific reference to a clothing allowance under the legislation. The panel therefore finds that the ministry reasonably determined that the need for winter clothing is not an "*unexpected expense*" or items "*unexpectedly needed*". Accordingly, the panel finds that the ministry reasonably determined that the appellant did not meet first part of the legislative criteria prescribed in section 59(1)(a) of the EAR.

The second criterion, prescribed under the second part of section 59(1)(a), is whether the appellant has "*no resources available*" in the family unit to meet the expense or to obtain the item requested. The panel notes that the appellant receives allowances for shelter and support amounting to \$1088.00 per month and a child tax benefit/family bonus of \$304.00 per month. In addition thereto, she has also received two top-up family bonuses amounting to \$370.16 at the time of her request for the crisis supplement. There are also community resources also available in the district where the appellant resides, which can provide winter clothing that is free or inexpensive. In view of such evidence, the panel finds that the ministry reasonably determined that the appellant has access to financial resources and community resources to meet the clothing items needed by the appellant. Therefore, the panel finds that the ministry reasonably determined that the appellant did not meet the legislative criteria prescribed in second part of section 59(1)(a) of the EAR.

The third criterion, prescribed under section 59(1)(b), is that where the criteria of sub-section 59(1)(a) is met, the minister must consider that that failure to meet the unexpected expense would "*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 Services Act. In the present case, the ministry had no evidence at the time of the reconsideration decision that demonstrated that failure to obtain winter clothing would



result in imminent danger to the appellant's physical health or the physical health of her son. Such evidence was also not presented to the panel at the hearing of the appeal. Therefore, the panel finds that the ministry reasonably determined that the appellant did not meet the legislative criteria prescribed in section 59(1)(b) of the EAR.

Based on the foregoing findings, the panel finds that the ministry reasonably determined that the appellant has not met any of the three criteria described above, all of which must be met under in order for the appellant to be eligible under section 59 for the crisis supplement requested by her. Therefore the panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and is a reasonable application of the applicable legislation in the circumstances of the appellant. The panel confirms the ministry's reconsideration decision.