

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated December 13, 2013 which denied the appellant's request for a crisis supplement to cover clothing costs. The Ministry held that the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met as the ministry found that:

- clothing costs are not an unexpected expense;
- there was insufficient information to show that alternate resources are unavailable to the family unit to secure clothing; and,
- there was insufficient information to establish that failure to meet the expense will result in imminent danger to the physical health of any person in the appellant's family unit.

PART D – Relevant Legislation

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 the reconsideration decision included ministry file notes regarding the appellant and the Request for Reconsideration- Reasons dated December 10, 2013.

In his Request for Reconsideration, the appellant wrote that he has no winter foot wear and he lives where there is no public transportation and he must walk several kilometers in snow and rain to town.

In his Notice of Appeal, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote that his feet are cold as his old winter boots went missing. He had an unforeseen problem of needing proper foot wear. He lives several kilometers from town and he walks everywhere and it has been "10 below."

At the hearing, the appellant stated that he has only one pair of shoes and no money so he applied for emergency assistance to get winter boots. After the amounts are deducted from his assistance for hydro and his other expenses, he has nothing left. He needs boots to get to the store and the ministry has this program in place for situations like this. This is the first winter that he has not had boots and he has been wearing his runners. When asked what happened to his old winter boots, the appellant replied that he does not have them anymore. He has lived in the same community for a number of years and he is in a rural area which is several kilometers from the nearest town and there is no bus transportation available. There was a "cold snap" this winter where the temperature got down to "10 below" for 3 or 4 days. He is not able to go to town very often because his feet get cold in his runners and he "gets sick." The appellant stated that he checked with some community resources and could not find a pair of winter boots his size prior to applying for the crisis supplement sometime at the beginning of December. The ministry gave him a list of 2 or 3 places and he checked with 2 of them and could not find boots that fit him. The appellant stated that while other winter clothing, such as coats, is available, it is harder to find footwear. He had to get a ride to check these resources and he is not able to check with them every week as suggested. He does not know of any other resources where he might obtain winter boots his size.

The ministry relied on its reconsideration decision. At the hearing, the ministry representative explained that prior to 2002 there was a clothing allowance for which recipients were automatically eligible, but in 2002 the legislation was amended. The legislation now has criteria which must be met before a crisis supplement can be granted. The ministry pointed out that the information that the appellant provided in his Notice of Appeal that his boots "went missing" was not before the ministry on reconsideration.

The panel considered that the appellant had raised the issue of not having boots available to him before the ministry on reconsideration. The panel admitted the information that his boots 'went missing', pursuant to Section 22(4) of the *Employment and Assistance Act*, as being in support of information and records that were before the ministry on reconsideration.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover clothing costs, as the requirements of Section 57 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

Crisis supplement

- 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. . . .

Unexpected expense

The ministry's position is that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that the supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed. The ministry argued that the need for clothing is not unexpected as seasonal changes will warrant winter clothing. The ministry argued that the appellant has not provided any substantive information to demonstrate that he had an unexpected expense or a recent unforeseen circumstance that prevented him from meeting his clothing needs.

The appellant's position is that winter boots are an item unexpectedly needed since his old winter boots 'went missing.' The appellant argued that he has had winter boots in the past but now he only has his runners.

Panel Decision

Section 57 of the EAPWDR stipulates that a crisis supplement may be provided when all of the legislative criteria are met, including that the supplement is required to meet an unexpected expense or to obtain an item unexpectedly needed. The appellant has lived in the same community for several years and is aware of the seasonal changes in temperature that necessitate appropriate clothing, especially when faced with a walk of many kilometers to the nearest town. The panel finds that the ministry reasonably concluded that the need for winter clothing is not an unexpected expense. Although the appellant argued that winter boots are an item unexpectedly needed because his old winter boots went missing, he did not provide further information regarding the date that they went missing or any further particulars other than he no longer has them and he has only been using a pair of runners. Therefore, the panel finds that the ministry's determination that the clothing expense for winter boots was not an unexpected expense, or an item unexpectedly needed, under Section 57(1)(a) of the EAPWDR, was reasonable.

Resources Available

The ministry's position is that information has not been provided to establish that the appellant has no resources available to meet his need for winter boots on his own. The ministry argued that the appellant is provided with monthly assistance including funds designated for support that is intended as a resource to help meet basic needs such as clothing. The ministry argued that the appellant has been in receipt of assistance since 2007 and is aware of the need to plan for such necessities as winter attire. The ministry argued that while the appellant stated he checked some community resources, it is necessary to check regularly, and in advance of the season, to find used items that will meet his needs.

The appellant's position is that after the amounts are deducted from his assistance for hydro and his other expenses, he has nothing left to purchase winter boots. The appellant argued that he checked with community resources before he applied for a crisis supplement and he checked 2 of the places that the ministry suggested and there were no winter boots available in his size. The appellant argued that it is difficult for him to access these resources and he cannot check with them every week as suggested.

Panel Decision

Section 57 of the EAPWDR sets out that a crisis supplement may be provided when all of the legislative criteria are met, including that the family unit or a person in the family unit is unable to meet the expense or obtain the item because there are no resources available to the family unit. The panel finds that the ministry reasonably concluded that the appellant's monthly assistance is intended as a resource to help meet basic needs such as clothing, including winter boots. The appellant has been in receipt of assistance for a number of years and has lived in the same community and is aware of the need to plan for the expense of clothing appropriate to the winter weather, including winter boots.

While the appellant checked with two community resources sometime at the beginning of December 2013 prior to applying for a crisis supplement, he argued that it is difficult for him to get to the community resources to check back regularly because of the distance from his residence to town. The appellant admitted that it is more difficult to find footwear to fit than other items of clothing, and the panel finds that the ministry reasonably concluded that there was not sufficient information to demonstrate that the appellant had exhausted potential resources by checking with all the organizations listed in his community on a regular basis, which might include calling the organization or having someone check on his behalf when he is unable to attend personally. The appellant did not provide information about when his old winter boots went missing, or when he discovered them missing, although he admitted that he only checked with the community resource prior to his application for a crisis supplement on December 4, 2013, rather than in advance of the seasonally colder weather in order to increase the likelihood of finding boots in his size. The panel finds that the ministry's conclusion that there was not sufficient information to show that alternate resources are unavailable to the family unit to secure clothing, under Section 57(1)(a) of the EAPWDR, was reasonable.

Imminent Danger to Physical Health

The ministry's position is that the appellant has not provided sufficient information to establish that failure to obtain the requested item of winter clothing will result in an imminent danger to the appellant's physical health.

The appellant's position is that sufficient evidence has been provided to establish that failure to obtain the winter boots will result in imminent danger to his physical health since he is wearing runners in the rain and snow, that there was a "cold snap," his feet are getting cold and he is getting sick.

Panel Decision

Section 57 of the EAPWDR sets out that a crisis supplement may be provided when all of the legislative criteria are met, including 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. While the appellant stated that he is getting sick from wearing runners in the cold weather, he did not provide evidence that going without winter boots poses a serious threat to an existing health issue or that a specific medical condition has developed that will result in imminent danger to his physical health. The panel finds that the ministry's conclusion that there is not sufficient information to establish that failure to meet the cost of clothing will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to Section 57(1)(b) of the EAPWDR, was reasonable.

Conclusion

Section 57 of the EAPWDR stipulates that all of the requirements of the section must be met in order for a person to be provided with a crisis supplement. The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of clothing, namely winter boots, because all of the requirements of Section 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.