

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (ministry) reconsideration decision dated November 25, 2013 which held that the appellant was not eligible for a crisis supplement for clothing pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The ministry determined that the appellant meets the criterion of subsection (1) of Section 57 of the EAPWDR as the appellant is eligible for disability assistance and subsection 1(b) that the failure to receive the requested crisis supplement will result in imminent danger to her physical health or would cause the removal of a child under the *Child, Family and Community Service Act*. However, the ministry determined that the appellant failed to establish that, pursuant to subsection (1) (a), the crisis supplement for clothing is to meet an unexpected expense or was unexpectedly needed and that she did not have other resources to meet her need.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consisted of:

- 1) The Request for Reconsideration dated November 14, 2013 which states that the appellant does the best she can with what she is given to provide for her 6 children, her husband has no status [in Canada] and therefore cannot help, she was denied help for beds so she paid for them herself, she had to pay for unexpected lawyer fees, she was not counting on braces for her daughter and that she has no winter clothes for herself;
- 2) A 2-page letter from the appellant signed and dated November 14, 2013, in which the appellant states that:
 - she disagrees with the Ministry's decision to disallow a clothing allowance for her to purchase winter clothing for the 4 youngest of her 6 children, that she did not have the children for several months last year and did not receive Child Tax Benefit during that time, and that the children have outgrown their old clothes;
 - since her children were returned to her, she had to move to a bigger home, that during the move many of her possessions were misplaced or not transferred to the new location, and that she had limited resources to move;
 - all of her children suffer from asthma therefore must be dressed appropriately for the weather, and that she does not want to be accused of not taking care of her children because she cannot purchase warmer clothing for them. Though her family tries to help, that appellant stated that the responsibility is hers;
 - she received child maintenance arrears from her ex-husband with which she purchased beds, bedding for her children so that they did not have to sleep on mattresses placed on the floor and to move to a larger place;
 - she has complied with the Ministry by providing documentation to substantiate any monies she has received, all actions she has taken and anything related to the care of her children;
 - she does not want her children taken away from her because it will be deemed that she is not caring for them and looking after their needs.

In the reconsideration decision, the Ministry notes that in addition to the monthly support funds provided to the appellant, she received \$2742.00 in Family Maintenance (FM) funds in September 2013, \$882.00 in Child Tax Benefits (CTB) the week of October 21, 2013, and that she lives in a large urban setting with many community resources available to obtain free or inexpensive clothing for her children.

In the Notice of Appeal, the appellant states that she and her 6 children suffer from health problems, she purchased beds for her children so they would not have to sleep on the floor and that she had to move to a more expensive [larger] place or the Ministry of Children and Family Development (MCFD) would remove her children. She goes on to state that she and her children do not have any winter clothes due to her move, and that she only noticed this when she had to pull them out for use. She contacted the moving company but they did not acknowledge that the items were missing. The appellant adds that dealing with this situation is stressful for her and causing her anxiety to the point of risking her health.

At the hearing the appellant stated that in January 2013 MCFD advised her to find a larger home to accommodate her and 6 children. All of her children have asthma but one of her son has a very serious case of asthma and can have asthmatic attacks every couple of months, for which he receives treatment at the hospital. On February 28, 2013 her children were returned to her and she moved in August 2013 to a 3 bedroom place that costs \$1300 per month to rent. The ministry refused to pay for the moving cost so she paid for an independent moving company to move her stuff. At the end of September 2013 or beginning of October 2013, the appellant realized that she was missing 5-6 boxes of her stuff, which included the children's winter clothing. She thoroughly looked for the items in the home. She called the moving company but they refused responsibility. She called the person living in her old place to see if she had left the clothes there but was told she had not left the clothes there. She called her mother, who previously had custody of her children, and she gave the appellant whatever clothing she had belonging to the children. As it turned out the children had out grown that clothing. She also asked 4-5 friends whose children are older, if they had any clothing that her children could use but was unsuccessful in obtaining any clothing.

On October 28, 2013 she asked the ministry for a crisis supplement for clothing and was eventually denied because she had received FM and CTB, with which she paid bills instead. The appellant states that she is given \$1400 allowance with her rent at \$1300, which only leaves \$100. She pays \$600 per month for food, \$100 for utilities, \$160 for phone, \$30 for each cab ride to the hospital when her son has an asthmatic attack, and money for school fieldtrips. She is in the process of sponsoring her husband for immigration to Canada, for which she paid \$1040.20 + \$75 for sponsorship fees and \$700 for immigration consulting fees. She asked the ministry to pay for beds for her children but was denied so she paid \$500 + bedding + delivery for beds and pays \$200 per month for her daughter's braces. The appellant worries that if she did not purchase the beds or if she does not have proper clothes for her children, MCFD would take her children away from her.

The appellant stated that the ministry made an error:

- when it referred to the November 20, 2013 disability assistance as monies she could use to purchase clothing because this assistance came after the original decision;
- when it stated that the need for clothing was not unexpected because it was unforeseen that the movers would lose her belongings, including her winter clothes;
- because she has listed her expenses and did her due diligence by searching her current and former residence for the winter clothing, calling her mother and friends for help and calling the moving company to hold them accountable for their actions, and that the legislation does not specify which resources should be accessed or how many. To this she adds that in the last two weeks she visited one church and two local community services agencies for help but was turned away due to the high demand for and short supply of winter clothing.

At the hearing the ministry relied on its reconsideration decision and noted that:

- to receive a crisis supplement, one must meet all of the criteria listed in the legislation and that even though this appellant meets the third criteria, she must also meet the first and second criteria;
- in September 2013 the appellant received \$2742.57 in FM and therefore should not have been eligible for her October 2013 assistance but still received it. As a result she had extra funds;
- the appellant's income assistance is at a higher rate because she has a large family, she has received assistance every month since her move (September 2013, October 2013 and November 2013), and she received FM and \$882 CTB, therefore she could have purchased

winter clothing with the funds available to her;

- by the time the request for a crisis supplement for clothing came to the ministry, several disability assistance cheques had already been issued to the appellant;
- a crisis supplement is only for emergencies and each family member is eligible for \$100 per year to a maximum total of \$400 per year total for the family unit;
- the appellant did not supply information to demonstrate that community resources (other than family and friends) were accessed.

Admission of New Information

At the hearing the appellant stated that in the last two weeks she visited one church and two local community services agencies for help but was turned away due to the high demand for and short supply of winter clothing. The panel found that the new information the appellant presented was not before the ministry at the time of reconsideration and that the attempt to access community resources occurred after the reconsideration decision. Accordingly, the panel did not admit this new information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue at appeal is whether the ministry's decision that the appellant failed to establish that her need for a crisis supplement for clothing was an unexpected expense or was unexpectedly needed and that the expense could not have been met by other resources as required by Section 57 (1) (a) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 57(1) of the EAPWDR sets out the eligibility requirements for providing 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*.

Section 5 of EAPWDA provides as follows:

Disability assistance and supplements

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

The Appellant's Position

The appellant argues that she did not expect that the movers would lose her possessions and that she had every day expenses plus the added expense of moving, sponsorship and consultant fees, payments for braces and the cost of purchasing beds which depleted the resources she had available to her to purchase winter clothing. She also argues that she did her due diligence by looking for the clothing at her current and previous residence, following up with the moving company, calling her mother and friends for extra clothing.

The Ministry's Position

The ministry's position is that clothing is an ongoing expense and it is not unexpected that seasonal changes will warrant winter clothing. Also, in addition to the assistance the appellant receives, she had \$2742 in FM for September 2013 and \$882 in CTB for October 2013 to cover the cost of winter clothing, and that despite living in an urban area that has many community resources available to obtain free or inexpensive clothing she did not provide information that she sought community resources to meet her needs.

The Panel's Decision

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or 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.

Unexpected Need or Expense

The panel acknowledges the ministry's position that clothing is not an unexpected expense as it is an ongoing need and that the appellant had received monthly assistance between the time of her move in August and late October when she requested the crisis supplement. However, in the case of the appellant she did not expect that the moving company would lose her possessions, and as a result of this, she would need to purchase an entire new winter wardrobe for her children. The appellant had no need to prepare her children for winter in August, (the time of her move), or in September as the weather does not require warmer clothing so she had no need to intentionally look for them. She discovered that the winter clothes were missing in early October when they were needed. She stated that she spent some time looking for the items in her home and her previous residence and contacted the moving company but it took no responsibility. Once sure the winter clothing was gone, she contacted family and friends and then the ministry. In this case, though the expense of winter clothing was not unexpected, the winter clothes were unexpectedly needed thus meeting the requirement of the first part of section 1(a). The panel finds that the ministry's determination that the need for winter clothing was unexpected or unexpectedly needed was not reasonable in the circumstance of the appellant.

Availability of Other Resources

The panel acknowledges that by the time the appellant discovered that the children's winter clothing was missing (in early October), the FM she received in September and her income assistance up to that point had already been spent on additional expenses (such as moving, purchasing beds and bedding, paying fees related to her husband's immigration and her daughter's braces payments). The panel also acknowledges that the appellant sought help from family and friends to meet her need of winter clothing for her children, and that her October income assistance went to pay for daily living expenses. However, the appellant has not demonstrated or provided evidence that she attempted to access community resources available to her prior to the reconsideration decision. She was also in receipt of \$882 for CTB the week of October 21, 2013 (which is after the discovering that the winter clothing was missing) but did not use this money to purchase winter clothing. The panel finds that the appellant had resources available to purchase winter clothing for her family and she did not utilize community resources to meet her need. The panel finds that the ministry reasonably determined that the appellant has not established that other resources were not available to meet the need of clothing.

Conclusion

The evidence establishes that the appellant has not met all of the criteria set out in Section 57 (1) of the EAPWDR. The panel therefore finds that the ministry's decision to deny the appellant's request for a crisis supplement for clothing was a reasonable application of the legislation and was reasonably supported by the evidence. Thus, the panel confirms the ministry's reconsideration decision.