

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated November 29, 2013 in which the ministry denied the appellant's request for a crisis supplement for clothing. The ministry held that the appellant did not meet the criteria under which a crisis supplement may be provided under section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

- a) the family unit or a person in the family unit did not require the supplement to meet an unexpected expense or to obtain an item unexpectedly needed;
- b) the appellant failed to demonstrate that there were no resources available to the family unit; and
- c) the appellant failed to demonstrate that failure to obtain the items would result in imminent danger to the physical health of any person in the family unit.

PART D – Relevant Legislation

EAPWDA, Section 5
EAPWDR, Section 57(1)

PART E – Summary of Facts

The appellant is a female who at the time of the Reconsideration Decision was 28 weeks pregnant. She moved to British Columbia from another Canadian province on or about Oct. 5, 2013.

Between September 30 and October 30 they received the following PWD benefits:

- September 30, 2013 - \$1,645.00 for the month of September from the other province;
- October 29, 2013 - \$660.39 prorated support and shelter benefits from the ministry;
- October 29, 2013 - \$1270.56 from the ministry for the month of November, of which \$600.00 was designated for shelter, including utilities.

On November 18, 2013 the appellant requested a clothing supplement from the ministry, stating that she had been unable to bring her winter clothing from her former province due to the cost of moving her belongings. On November 19th the ministry denied her request.

On November 26, 2013 the appellant requested a reconsideration of the ministry's decision to deny her a crisis supplement for clothing. She submitted that she had been obliged to leave her winter clothing behind due to money issues, and on November 20th had been forced to move to a new motel at a higher rent because her first motel room had black mold. She included a shelter information document dated November 26, 2013 confirming her new monthly rental cost of \$650.00, including utilities.

The appellant also stated that she had spent all her remaining money on food, baby clothing, asthma medication (more than \$100.00 per month), laundry (\$40.00 every two weeks) and repeated taxi fares (\$10.00-15.00 per trip) for travelling back and forth to the laundromat and grocery store. She added that she and her husband had pawned their wedding rings in order to obtain more money. The appellant concluded by stating that her lack of winter clothing was placing her unborn child's life at risk.

In her Notice of Appeal dated December 5, 2013 the appellant states that she is 29 weeks pregnant with no winter coat or boots and that she has to pay for her unborn daughter's clothing, food and diapers. She adds that she has done what she could to get winter clothing for herself and her husband.

The ministry found that the appellant did not meet the criteria for a crisis supplement and relied on its reconsideration decision.

Findings of Fact

The appellant is eligible for a supplement under Section 5 of the EAPWDA.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision which denied the appellant's request for a crisis supplement for clothing on the basis that the appellant did not meet the legislative criteria set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57(1) because:

- a) the family unit or a person in the family unit did not require the supplement to meet an unexpected expense or to obtain an item unexpectedly needed;
- b) the appellant failed to demonstrate that there were no resources available to the family unit; and
- c) the appellant failed to demonstrate that failure to obtain the items would result in imminent danger to the physical health of any person in the family unit.

The relevant legislation is set out in the EAPWDA and the EAPWDR:

EAPWDA:

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.

EAPWDR:

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*.

The appellant's position is that she is eligible for a crisis supplement for clothing because she was forced to leave her winter clothing behind in another province when she moved to British Columbia in October 2013. The appellant also submits that she and her husband have the right to be warm and protected from frostbite, and that failure to receive a crisis supplement for clothing is putting her and her unborn baby at risk as well as causing health issues related to her and her husband's asthma. She also states that she has done her best to obtain winter clothing and has been unable to do so

due to a shortage of funds. She is short of money because she has purchased food and baby clothes for her unborn daughter, needed to move to more expensive rental accommodation in November 2013, has medication costs exceeding \$100.00 per month, spends \$40.00 every two weeks to do laundry and must spend \$10.00 – \$15.00 in cab fare every time she goes to the grocery store or laundromat.

The ministry's position is that the appellant has not met the criteria for a crisis supplement because her need for winter clothing was not an unexpected expense or unexpectedly needed. The appellant chose to leave her winter clothing behind. The ministry argues further that the appellant has not provided enough evidence to demonstrate that she made an effort to access available resources within the community to meet her clothing needs, and notes that during the month of November she had \$670.56 available to her for food and clothing and was advised to budget this amount to accommodate her clothing need, but chose to purchase baby clothes which would not be needed for another few months. Lastly, the ministry argues that the appellant has failed to demonstrate that failure to obtain winter clothing will result in imminent danger to her health or to the health of anyone in her family unit.

Panel's Findings

Unexpected Expense or Unexpected Need

When she left her winter clothing behind in October 2013 prior to her move to British Columbia the appellant should have known that she would require winter clothing in a few weeks' time. These items were neither an unexpected expense nor unexpectedly needed.

No Resources Available

Instead of buying winter clothing in November when winter was fast approaching the appellant spent money on baby food and clothes even though the baby's due date was ten to twelve weeks away. The appellant also failed to provide any evidence to substantiate her claim that she had done everything she could to try to find winter clothing. During the month of November she received \$670.56 in benefits over and above her shelter allowance. Her budgeting and spending decisions do not support a finding that she had no available resources.

Imminent Danger to Physical Health

The evidence establishes that the appellant has shelter and the panel finds that the appellant has not provided sufficient evidence regarding her pregnancy or her and her husband's asthmatic conditions to support her argument that failure to obtain the requested items will result in imminent danger to her or her husband's physical health.

Conclusion

The panel finds that the ministry's determination that the appellant did not meet the legislative criteria for a crisis supplement for clothing was a reasonable application of the enactment in the circumstances of the appellant and confirms the decision.