

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's Reconsideration Decision of 18 December 2013, which held that the appellant was not eligible under the Employment and Assistance Regulation (EAR), section 59(1) for a Crisis Supplement for clothing. Specifically, the ministry was not satisfied that a crisis supplement was required by the appellant to meet an unexpected expense or that the item was unexpectedly needed, that there were no alternate resources available or that failure to provide the crisis supplement would 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

At the commencement of the hearing the panel had to clarify the matter under appeal with the appellant, who believed that there were other matters to be reviewed at the hearing. After reviewing the reconsideration decision, the appellant agreed that this hearing was limited to reviewing the Ministry's reconsideration decision denying the crisis supplement for clothing.

The evidence before the minister at reconsideration was:

- The appellant has been receiving income assistance as a sole recipient since his file was reopened on November 13, 2013.
- The appellant received the following support funds intended to provide for food and clothing:
 - \$141. on November 13th
 - \$270. on November 20th
 - \$215. on December 18th
- The appellant had moved from one city to another city; when he moved, he left his winter clothing in the city where he previously lived.
- Sometime after November 20th, the appellant returned to the city where he had previously lived to obtain copies of his medical records.
- A ministry worker had advised the appellant that he could contact the Salvation Army to get a voucher for clothing.
- On December 3, 2013 the appellant requested a crisis supplement for winter clothing.
- The appellant's request for reconsideration dated December 11, 2013

At the hearing, the appellant provided evidence that his relationship with his spouse had ended in late August, 2013 and his father had passed away in September, 2013. Shortly after his father passed away he came to the city where he now lives to be with friends who provided him with moral support. The appellant said at the time he moved he made the decision to leave his clothes which were with this ex-wife because in his words: it was better not to go there. The appellant has a damaged rotator cuff which was originally injured approximately 2 or 2 1/2 years ago, it was then re-injured April 21, 2013. After the re-injury he was on WCB but his claim was terminated after six weeks because WCB was requiring him to do things he could not do. He then went of medical Employment Insurance for 15 weeks (maximum claim). The appellant requires surgery; he has not been able to get a doctor in his new community. He states he is in considerable pain and has been taking prescription narcotics for an extended period of time. The appellant is waiting for an operation. The appellant stated that he was told to return to his former community to collect his medical records. The appellant needed the medical records so he could provide them to the hospital, in order to arrange for surgery. The appellant had brought his medical records with him to the hearing; he stated that he had provided copies to the Ministry.

The Ministry did not object to the evidence provided by the appellant. However, the Ministry could not comment on the medical records or what the appellant had been advised because it was not part of this reconsideration decision. The Ministry relied on the information set out in the Reconsideration Decision. Additionally, the Ministry provided evidence that they had contacted the Salvation Army and had confirmed there was men's winter clothing available at the time the appellant applied for the crisis supplement.

The appellant disputes the evidence of the ministry that there was clothing available at the Salvation Army. At the hearing he stated that he went to the Salvation Army but that there was nothing suitable there at the time. He then went to Value Village where he purchased two jeans, shirts, socks and a hoody with money given to him by his roommate.

The medical records were not provided to the panel and the contents of those records were not relevant to this appeal except to the extent that the appellant went to get them from his former community.

The panel finds that the oral evidence provided by the appellant in his submission to be in support of the information and records that were before the ministry at the time of reconsideration and therefore admissible under section 22(4) of the EAA.

The panel finds the following facts:

- The appellant did not bring winter clothing with him when he moved to his new community.
- When the appellant returned to his former community to collect his medical records he did not attempt to contact his ex-wife to get his winter clothing.
- As a result of the foregoing, the appellant did not have winter clothing.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reasonably determined that the appellant was not eligible for a crisis supplement pursuant to the Employment and Assistance Regulation (EAR), section 59(1) for a Crisis Supplement for clothing. Specifically, the ministry was not satisfied that a crisis supplement was required by the appellant to meet an unexpected expense or that the item was unexpectedly needed, that there were no alternate resources available or that failure to provide the crisis supplement would result in imminent danger to the appellant's physical health.

The relevant legislation provides:

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 and Assistance Regulations

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

(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 ministry set out the test for eligibility to receive the crisis supplement is in three distinct parts, each of which must be met:

1. To meet an unexpected expense or obtain an item unexpectedly needed
2. You have no resources available to you
3. Failure to provide the item will result in imminent danger to your physical health.

The ministry's position is the crisis supplement was not required to meet an unexpected expense as the appellant knew he had no winter clothes in his new community. When he returned to his previous community he did not attempt to retrieve his winter clothing. The fact that the weather will be getting colder with the onset of winter and the appellant will need warmer clothing is not unexpected.

The ministry argued that there were community resources available to the appellant; he had been advised that he could get a clothing voucher from the Salvation Army for winter clothing. Alternatively he could have set aside part of his support payments to purchase clothing.

Finally the ministry determined that there was insufficient information to establish that failure to obtain clothing would result in imminent danger to the appellant's health. Therefore the ministry determined that the criterion had not been met

The appellant argues that his funds were used to travel to get his medical information which he needed to have, and which he was told to go and get from his former doctor. The appellant said he was told he would be reimbursed for the travel expenses, but he was not. It is his medical situation that has set him back and this is the reason that he did not have the money to buy clothing. The appellant decided not to go and see his ex-wife to retrieve his cloths because it was better that way.

The panel accepts that the appellant used his support payments to travel to his former community. In doing so the appellant could have attempted to retrieve his winter clothing when he returned to his former community, but he chose not to. Had he made an attempt he may have found that his ex-wife no longer had his clothes but without that contact, that is something neither the appellant,

the ministry, nor this panel can know. The appellant knew that winter was coming and he would need warm clothing, but he did not make alternate plans. The panel finds the ministry's determination that needing winter clothing was not an unexpected expense is reasonable.

While the ministry argues that the three support payments provided to the appellant in November and December were available to meet the expense of winter clothing, the panel has accepted that they were used for travel and as such were not an available resource.

There is a conflict in the evidence regarding what was available at the Salvation Army through voucher. The panel finds that there was men's clothing available, but not clothing the appellant found suitable. Further, the panel finds that the evidence establishes that the appellant had alternative resources available in the form of funds given to the appellant by his roommate. The panel finds the ministry's determination to be reasonable that there were alternate resources available in through the Salvation Army voucher program and the funds given to the appellant by his roommate.

The panel finds that the appellant's need to obtain winter clothing could have been addressed in alternate ways and there was no evidence of imminent danger to the appellant. Therefore the panel finds the ministry's decision was that there was insufficient information to establish imminent danger to the health of the appellant was a reasonable determination.

As the panel has found the ministry reasonably determined that the appellant had alternate resources to meet his winter clothing needs, including the Salvation Army voucher, the funds given to him by his roommate and his own clothes that he did not attempt to retrieve when visiting his former community, the panel finds that the ministry reasonably concluded that the appellant did not meet all the criteria set out in section 59(1) of the EAR for a crisis supplement. Therefore the panel finds the ministry's decision is a reasonable application of the applicable enactment in the circumstances of the appellant and thus confirms the decision.