

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's ("Ministry") reconsideration decision of the dated January 14, 2014, which denied the appellant a crisis supplement for clothing under section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because she did not meet all the legislated criteria set out in section 57(1)(a) EAPWDR, in particular;

- the supplement was required to meet and unexpected expense or to obtain an item unexpectedly needed; and
- she is unable to meet the expense or obtain the item because there are no resources available to the family unit.

Further, the ministry determined that failure by the ministry to provide the crisis supplement for clothing will not result in imminent danger to the physical health of any person in the family unit or the removal of a child under the *Child, Family and Community Service Act* as set out in section 57(1)(b) EAPWDR.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified of the date and time of the hearing, the hearing proceeded in the Appellant's absence under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Minister at reconsideration included the following:

- Service request crisis supplement form dated December 31, 2013, stating that the Appellant expected some clothes for Christmas and that a friend gave her a coat but it had no lining. All she has for her feet is sandals. The Appellant states that she has no family and she doesn't know anyone to borrow from. She was sick over the holidays and received a Christmas hamper, but no clothes.
- Ministry file note dated December 31, 2013, stating that the Appellant is having challenges maintaining high shelter costs and hasn't been able to find cheaper accommodations so she is having difficulty making ends meet. She was counting on getting a winter jacket for Christmas or finding a coat at other local resources, but couldn't find a coat. A friend loaned her a jacket shell, and she is wearing slippers, but no shoes.
- Ministry file note dated December 31, 2013, stating that the Ministry made multiple attempts to contact the Appellant to let her know that she has not shown an unexpected need and that her request was denied.
- Ministry file note dated January 2, 2014, stating that the Appellant requests a reconsideration of the decision to deny a crisis clothing supplement.

On her notice of appeal dated January 29, 2014, the Appellant included a handwritten paragraph stating that the Appellant was told to phone an advocacy group. When the Appellant phoned, the advocacy group told her to write about her weight gain. She couldn't find a ride to the Advocate's office.

With her notice of appeal, the Appellant also included five handwritten pages dated February 3, 2014, detailing the Appellant's weight gain over the past few months and that, as a result, the only clothes she has to wear are 'stretchies'. The Appellant reiterated that she was expecting a winter coat and boots for Christmas from family members and that she pays too much for rent. She has tried talking to her landlord, but it is impossible to discuss rent reduction with him. The Appellant states that she needs a cane to get around, and with the snow, she is afraid to go out. She is scared and more depressed as time goes on.

The panel determined that the additional handwritten submission is admissible as written testimony in support of information before the minister at the time the decision under appeal was made under Section 22(4) of the EAA as it provides information about the Appellant's eligibility for a crisis supplement for clothing.



PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's decision to deny the Appellant a crisis supplement for clothing under Section 57(1) of the EAPWDR is a reasonable application of the enactment in the circumstances of the Appellant.

The panel notes that in the reconsideration decision, the Ministry refers to both EAR Section 59 and EAPWDR Section 57. As the Appellant is designated a person with disabilities and the legislation criteria are the same in both regulations, this decision will refer to and use EAPWDR Section 57(1).

The legislation provides the following:

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*.

(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 disability 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.

(BC Reg. 13/2003)

The legislation states that in order to be eligible for a crisis supplement for clothing under EAPWDR section 57, three eligibility criteria must be met. First, the need for the item must be unexpected or there must be an unexpected expense. Second, there must be no alternate resources available to obtain the item. Third, failure to obtain the item must result in imminent danger to physical health or result in the removal of a child under the *Child, Family and Community Service Act*.

In reference to the first criterion, that there must be an unexpected need or an item unexpectedly needed, the Ministry argues that clothing is an ongoing expense and seasonal changes will warrant winter clothing. Purchasing or obtaining a winter coat is not unexpected or an item that is unexpectedly needed. The Ministry argued that the Appellant did not demonstrate that she had an unexpected expense or a recent unforeseen circumstance that would have prevented her from meeting her clothing needs. Although the Appellant's housing costs are very high, this is not an unexpected circumstance as the Appellant has lived in the same location since March 2012.

The Appellant argues that she expected to get a coat and boots for Christmas. In the notice of appeal, the Appellant says that she has gained a lot of weight and so has fewer clothing items to wear during the winter. She knows that her rent is high, but is unable to find a solution with the landlord and she needs help to find less expensive accommodation.

The panel finds that the ministry's decision that the Appellant was not eligible for a crisis supplement to meet an unexpected expense or obtain an item that was unexpectedly needed was reasonable. The panel finds that the Appellant's need for a winter coat and boots was not unexpected as seasonal changes come every year, and her weight gain took place over many months prior to her request for a crisis supplement.

In reference to the second criterion, that no alternate resources are available, the Ministry argues that there are a number of charitable and community resources in the Appellant's area who offer free and

inexpensive clothing. The Ministry argued that the Appellant receives a monthly support allowance that can be used to buy clothing. The Ministry argues there is no evidence that the Appellant has used community resources or charitable organizations to find a winter coat.

The Appellant argues she does not have any resources available to her. She argued that she does not have funds to purchase a winter coat as her rent is high and her recent weight gain further reduces her available clothing. She did borrow a shell from a friend, but she has no other family to borrow from. She argues that she wouldn't ask for help if she didn't really need it and that she has tried to phone the local MLA and advocacy groups with little result. The panel finds that the Appellant did contact some alternate resources to obtain a winter coat and boots, but there is no evidence to show that her community and charitable resources were exhausted.

The panel finds the Ministry's determination that the Appellant had resources available for clothing was reasonable.

In reference to the third criterion, that failure by the Ministry to provide the crisis supplement will result in imminent danger to the appellant's health or the removal of a child, the Ministry argues that there is no information to establish that failing to obtain the winter coat would result in imminent danger to the Appellant's physical health.

The Appellant argues that it is not good for her health to face the coldest months of the year with just sandals and no coat or underclothes.

The panel finds that the evidence does not establish that the Appellant's health was in imminent danger if the Ministry did not provide her with a crisis supplement for clothing (winter coat). Although the Appellant is afraid to go out, she did not provide medical evidence to support that imminent danger to her physical health will result if she failed to obtain a winter coat and boots. The panel also notes that the Appellant lives alone so the legislation regarding the removal of children is not applicable to this appeal.

The panel finds that the Ministry's decision that failure to meet the expense or obtain the item would not result in the imminent danger to the physical health of any person in the family unit or the removal of a child under *Child, Family and Community Service Act* was reasonable.

The panel finds that the Ministry reasonably determined that the Appellant did not meet the legislated criteria set out in section 57(1) of the EAPWDR and therefore the Appellant is not eligible for a crisis supplement for clothing.

The panel finds that the Ministry's reconsideration decision is a reasonable application of the legislation in the circumstances of the appellant, and confirms the decision pursuant to section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act.