

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation ("ministry") reconsideration decision of February 3, 2014 which found that the appellant was not eligible for a crisis supplement for clothing. The ministry noted that a crisis supplement may only be provided if all three of the eligibility criteria in s. 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") [incorrectly referred to by the ministry as the "EAR"] are met. The ministry found that:

- The need for the item was not unexpected and clothing costs are not an unexpected expense;
- It was not satisfied that alternate sources were not available;
- There was insufficient information upon which to conclude that failure to obtain the clothing will result in imminent danger to the appellant's health.

The ministry also noted that it had allowed a prior crisis supplement for clothing within 12 months of the appellant's application for the crisis supplement and refused the application pursuant to s. 57 (4)(c) of the *EAPWDR*.

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR") s. 57 (1)



## PART E – Summary of Facts

With the consent of the parties, the appeal hearing was conducted in writing in accordance with s. 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included the appellant's request for reconsideration dated January 31, 2014.

The appellant delivered a late submission which was allowed by the panel chair. The ministry chose not to make a submission but to rely upon the reconsideration summary.

In his written submission dated March 3, 2014, the appellant explained that he had lost his clothing when they were stolen from a laundry facility. He noted specifically that he had lost a jacket and that his shoes fell apart. He noted that he had lost his jacket while eating breakfast and that "mice have had a feast with my clothing". He noted that he had glued his shoes together and that he had repaired his clothing with thread that did not match the clothing and was unsightly. The appellant referred to a prior head injury sustained "last May" and that as a consequence he was very forgetful. He wrote that he has gained approximately 75 pounds since his head injury and that "almost nothing" fits him anymore. The appellant denied that he had previously lost his clothes but noted that if he did it was a possibility due to his head injury.

In his request for reconsideration the appellant noted that he had suffered two head injuries and that as a consequence he suffered, among other things, loss of memory. He noted that he was almost 300 pounds and had great difficulty finding clothing to fit and he did not have anything that fit him. He also noted that "the incident with the laundry room happened well over a year ago". The appellant wrote that the mice have eaten holes in most of his clothing, the jacket he has is borrowed, and his shoes are held together with rubber cement and have no support.

In his Notice of Appeal dated February 13, 2014, the appellant expressed his disagreement with the ministry's reconsideration decision. The appellant wrote that he only lost his clothing once in a laundry mat and that, because of his head injury, he forgot his jacket while eating breakfast. His only pair of shoes just fell apart. The appellant wrote that he has no jacket, pants, or underwear.

The ministry noted that its records show that in January 2013 the appellant requested a crisis supplement for clothing as the appellant had advised that his clothing was stolen from a laundromat. He was provided with a \$100 supplement at that time.

The panel considered that the appellant raised a number of points, relating to the state and suitability of his remaining clothing, before the ministry on reconsideration. The panel admitted the additional information in the appellant's Notice of Appeal and written submission, 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 this appeal is whether the ministry's decision to deny the request for a crisis supplement for clothing was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant had not met the criteria established pursuant to s. 57 (1) of the *EAPWDR*?

The relevant legislation is as follows:

**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*.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(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

The appellant argues that he did not get a fair hearing from the front line worker when he requested the crisis supplement. He argues that the ministry was rude and did not permit him to fully explain the circumstances of the loss of the clothing. The panel notes that its consideration of the appeal must be based upon the information, and in particular the substantive evidence, put before the panel by the parties. It is further noted that in the appellant's request for reconsideration and in the present appeal the appellant had an opportunity to fully set out any and all evidence in respect of the application for the crisis supplement. Accordingly, the appellant's detailed explanation of the reasons

for the request for the crisis supplement has been considered.

The appellant argues that he did not previously lose clothing from a laundry. However the ministry records indicate that in January 2013 he applied for and was granted a crisis supplement of \$100 based upon the loss of clothing from a laundry. The appellant notes that he has suffered two head injuries and that as a result he suffers memory loss and is very forgetful. The ministry argues that it is not unexpected that unattended belongings may go missing, especially when the appellant had this same experience only a year previously.

The appellant raises a number of points relating to the state and suitability of his remaining clothing. The appellant states that he lost his jacket while eating breakfast and the jacket he wears is borrowed. The inference is that he left the clothing at a laundry while away eating breakfast. The appellant argues that he weighs approximately 300 pounds and that he has gained 75 pounds since his injury; however, the panel finds there is insufficient evidence to suggest when the weight was gained or if it was rapid and unexpected. The appellant wrote that he had two head injuries and that one of them was sustained "last May" and he does not specify when his other injury occurred or after which injury his weight gain began. The appellant also argues that the mice have chewed holes in his clothes and his only pair of shoes fell apart.

Section 57 (1) of the *EAPWDR* sets out three criteria for provision of a crisis supplement. Eligibility requires that the expense must be unexpected or the item is unexpectedly needed. The panel finds that the ministry reasonably determined that loss of unattended clothing in a public laundry facility is not an unexpected event. There is no evidence to suggest the loss of the clothing took place other than in circumstances where the appellant was away from the laundromat or because of memory difficulties. A prior crisis supplement had been allowed in January 2013 for the same reason. The need to replace clothing items that no longer fit due to normal fluctuations in weight or have worn from use or exposure to pests is to be expected and is a usual budgetary expense. The panel finds that the ministry's conclusion that the appellant's need for clothing is not unexpected and it is not an unexpected expense, under section 57(1)(a) of the *EAPWDR*, was reasonable.

The ministry argues that the appellant's monthly support funds are intended to provide for such costs as food and clothing and that it was not satisfied that the appellant had fully accessed community resources that provide free or inexpensive clothing. The appellant argues that he weighs approximately 300 pounds and it is hard to find clothing to fit him. The appellant did not describe his efforts to access community resources and the panel finds that the ministry's conclusion that there is insufficient evidence that there are no alternate sources for access to the clothing the appellant requires, was reasonable.

The ministry argues that there is insufficient information to establish that failure to obtain clothing will result in imminent danger to the appellant's health since he still has some clothing and he can replace some items through community resources. The appellant argues that his only pair of shoes fell apart and he has no jacket, pants or underwear. The appellant wrote that he has repaired his shoes and borrowed a jacket and that he has other items that he has sewn, although they are unsightly, and he did not describe any impacts to his health from the loss of his clothing items at the laundromat. The panel finds that the ministry's conclusion that there is insufficient evidence that the failure to obtain the clothing will result in imminent danger to the appellant's health was reasonable.

The panel also finds that decision that the appellant was not eligible for another crisis supplement until February 2014, citing s. 57 (4) (c), was reasonable

For these reasons the panel has concluded that the decision of the ministry was reasonably supported by the evidence and was a reasonable application of the applicable legislation and the decision of the ministry is confirmed.