



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated March 19, 2014 which held that the appellant is not eligible for a crisis supplement for clothing pursuant to section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry found that the three criteria in subsection 57(1) were not met because the appellant did not provide information to establish that:

1. She requires the crisis clothing supplement to meet an unexpected expense or obtain an item that is unexpectedly needed;
2. She does not have any resources available to meet the expense or obtain summer clothing; and
3. Failure to meet the expense or obtain the clothing will result in imminent danger to her physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act – EAPWDA - section 5
Employment and Assistance for Persons with Disabilities Regulation – EAPWDR – section 57



PART E – Summary of Facts

The evidence before the ministry at reconsideration included:

- Information from the ministry's records that the appellant receives disability assistance as a sole recipient;
- Information from the ministry's records that the appellant received \$40 in crisis supplements within the past 12 months, and a \$100 crisis clothing supplement in February 2013; and
- Request for Reconsideration signed by the appellant on March 6, 2014 in which she states:(1) She signed an agreement with her property manager to bring only new clothing into the building due to past problems with bed bugs; (2) A physician has instructed her to be on the Healthy Heart diet which results in higher grocery bills as she cannot purchase canned food; and (3) She needs new summer clothes as she has lost a lot of weight since a family member died in November.

The ministry adopted its reconsideration decision summary as its submission and did not introduce any new evidence. In her written submission dated April 10, 2014, the appellant reiterated that her doctor requires her to be on the Healthy Heart diet; therefore, "more of my monthly funds need to go toward food." She explains that she can't use community clothing resources because "I am required by my landlord to only bring new clothes into the building due to previous problems with bed bugs."

Attached to her submission are two documents as follows:

- An agreement between the appellant and her landlord, dated September 26, 2013 and signed by the appellant, in which the appellant agrees to three conditions:(1) Keep her unit clean; (2) Not bring in any used furniture, clothing, or other goods "unless first inspected and approved" by the building manager; and (3) Advise the building manager of any bed bug activity immediately so that remedial action can be taken.
- Letter from a medical school professor dated April 2, 2014 advising that the appellant is on the "healthy heart program diet" as prescribed by two physicians; that the food she is now buying is more expensive, "making it less easy to purchase clothing"; and the appellant is on disability and "she would appreciate a clothing allowance."

In accordance with section 22(4)(b) of the *Employment and Assistance Act*, the panel admits the submissions as testimony pertaining to her access to resources, in support of the information and records that were before the ministry at reconsideration.

The panel makes the following findings of fact:

- The appellant receives disability assistance;
- She has lost weight since November 2013;
- She was prescribed a Healthy Heart diet.
- The appellant's agreement with her landlord requires used clothing to be inspected and approved by the manager before it can be brought into the building.
- The appellant applied for a crisis clothing supplement on February 11, 2014 and her last clothing supplement for \$100 was issued in February 2013.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's reconsideration decision of March 19, 2014, which held that the appellant is not eligible for a crisis supplement to purchase clothing pursuant to section 57 of the EAPWDR because the appellant did not provide information to establish that her need for summer clothing is unexpected; she has no resources available to obtain the clothing; and failure to obtain the clothing will result in imminent danger to her physical health.

The following sections of the legislation apply to the appellant's circumstances in this appeal:

EAPWDA Income assistance and supplements:

Section 5 states that: *Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.*

EAPWDR Crisis supplement:

Pursuant to section 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:
 - (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.

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Appellant's Position

In her Notice of Appeal dated March 30, 2014, the appellant states "I believe I am entitled to a clothing allowance." In her submission she argues that her need for summer clothing is unexpected because she has to use more of her disability assistance for food as a result of the costlier Heart Healthy diet her doctor prescribed for her, and she has lost "a lot of weight" since November. She further argues that community clothing resources are not an option for her because the agreement she signed with her landlord does not allow used clothing to be brought into the building due to past problems with bed bugs.

Ministry's Position

The ministry's position is that the appellant did not meet the three requirements for a crisis clothing supplement pursuant to subsection 57(1) of the EAWPDR.

Unexpected expense or item unexpectedly needed, paragraph 57(1)(a):

The ministry argued that the need for summer clothing is not unexpected, and some weight loss since November does not create an unexpected need for summer clothing. The ministry's position is that the appellant "had plenty of time to plan for the expense."

No resources available, paragraph 57(1)(a):

The ministry noted that the appellant had received two supplements within the past twelve months (\$40 in crisis supplements and \$100 for clothing), and argued that she has resources to meet her clothing need through her disability assistance and community resources.

Imminent danger to physical health, clause 57(1)(b)(i):

The ministry was not satisfied that a "failure to provide new clothes or a crisis supplement" would result in imminent danger to the appellant's health. The ministry argued that the appellant would not face imminent danger if she used her current clothing and properly laundered any used clothing she may obtain.

Panel Decision

The panel notes the ministry's information that the appellant is eligible for disability assistance and therefore meets that requirement in subsection 57(1) of the EAPWDR. Also, there is no dispute over the calendar period for the supplement as the appellant had not received a crisis clothing supplement since February 2013 when she submitted her new application on February 11, 2014. Although the appellant argued in her Notice of Appeal that she is "entitled to a clothing allowance", the panel notes that section 5 of the *EAPWDA* does not confer any entitlement but instead gives the ministry the discretion to provide a crisis supplement to a family unit when all eligibility criteria are met.



Unexpected expense or item unexpectedly needed, EAPWDR paragraph 57(1)(a):

The panel finds that the ministry reasonably determined that the appellant's need for clothing was not unexpected because she currently has clothing and the new items she needs are for summer. As well, the ministry noted that the appellant's weight loss was gradual over several months and argued that she had time to plan for her clothing need. Furthermore, there is no information regarding how much weight the appellant had lost. Based on this evidence and logic, the panel finds that the ministry was reasonable in determining that the appellant did not meet the unexpected need criterion as required by paragraph 57(1)(a).

No resources available, EAPWDR paragraph 57(1)(a):

The panel finds that the ministry reasonably determined that the appellant did not meet the lack of resources criterion pursuant to paragraph 57(1)(a). While the panel accepts the appellant's evidence that she has higher food costs due to her Healthy Heart diet, the April 2, 2014 letter from a physician states that the appellant's higher food costs make it "less easy" for her to purchase clothing. The physician does not indicate that the appellant is without resources.

Further, the ministry noted that the appellant is receiving disability assistance to cover her living expenses and that community clothing resources are available. The panel notes that there is no evidence to indicate the appellant contacted community resources regarding summer clothing in an attempt to spread her resources further. Although she argued that she cannot bring used clothing into her building, the panel notes that there is not any outright prohibition in the agreement with her landlord. The agreement clearly states that used clothing is not to be brought in "unless first inspected and approved" by the building manager.

Imminent danger to physical health, EAPWDR clause 57(1)(b)(i):

Lastly, the panel finds that the ministry reasonably determined that the appellant does not meet the criterion for the crisis supplement under clause 57(1)(b)(i). The ministry argued there would be no imminent danger as the appellant could wear her current clothing and properly launder any used clothing she may obtain. The panel notes that the appellant had not provided evidence of imminent danger to her physical health if she did not receive the crisis supplement to obtain summer clothing. Her evidence indicated a past problem with bed bugs in her building but there was no mention of current bed bugs or any explanation regarding how new summer clothing would protect her from imminent danger. The physician's evidence in the April 2, 2014 letter is that the appellant "would appreciate a clothing allowance" because she is on disability. He does not indicate that any imminent danger to her health would occur without the clothing supplement.

In conclusion, the panel finds that the ministry's denial of the appellant's request for a crisis supplement for clothing was reasonably supported by the evidence. The panel therefore confirms the ministry's reconsideration decision.