



PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated July 28, 2014 in which the Ministry denied the Appellant's request for a crisis supplement for clothing. The Ministry determined that the Appellant's request was not for a need that was unexpected and that there was no indication that failure to receive a supplement for clothing will result in imminent danger to his physical health as required under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). In addition, the Ministry determined that the Appellant had received the full entitlement for a crisis supplement for clothing in March, 2014, which is within the 12 month period preceding this request, as set out in Section 57(4)(c) of the EAPWDR.

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

Information before the Ministry at reconsideration included:

- The Appellant's Request for Reconsideration dated June 23, 2014, with Appendix A attached
- Letter dated July 14, 2014 from the appellant to the ministry, enclosing the Request for Reconsideration.

At the hearing the Appellant submitted a bound package of documents under reference tabs 1 to 6. The Appellant asked that the material under Tabs 5 and 6, a doctor's note dated August 12, 2014 confirming that the Appellant has been advised to lose weight on a calorie-restricted diet for medical reasons and an affidavit sworn August 12, 2014 by the Appellant stating that he was told by the Ministry that it was his fault for losing weight and that he should just stop losing weight, be admitted as evidence, and the remainder of the material be regarded as part of his submission. The Panel determined that the items numbered as Tabs 5 and 6 were admissible under s. 22(4) of the EAA as they were in support of the records before the minister at reconsideration. The doctor's note at Tab 5 supports the Appellant's statement in his Request for Reconsideration that his physician advised him to lose weight. The sworn affidavit at Tab 6 is the Appellant's evidence related to the allegation in his Request for Reconsideration that he was advised by the Ministry to just stop losing weight. The Panel accepted the Appellant's submission that items numbered 1 to 4 be regarded as argument, not evidence. The Ministry had no objection to the admission of the documents.

The Appellant noted that the material under Tab 1 of his submission, a copy of a letter he sent to the Ministry dated July 14, 2014, asking that correspondence be directed to his office rather than his home, was ignored and the Ministry continued to send correspondence to his home, which caused him distress and for which he received no apology.

The Appellant asked that material not included in the Appeal Record related to his previous request for a crisis supplement for clothing which was granted in March, 2014 be provided by the Ministry at this hearing. The Ministry stated that the material refers to another request and emphasized that they are not relevant to the decision made on the request under appeal. The Panel notes that it is the responsibility of the Appellant to provide records and documentation to support his case and to provide them at the hearing or before. The Panel has no jurisdiction to compel the production of documents.

The Appellant referred to the note from his physician dated August 12, 2014, which states that he has been advised to lose weight for medical reasons; therefore his request is a matter of medical necessity, as being extremely overweight could lead to death. The appellant stated that he had been advised by his doctors to lose weight in 2012, and possibly as early as 2010, and, recently, he has been losing approximately 17 to 20 lbs. per month. The appellant stated that everyone needs clothing to function appropriately in the community, making it a necessity. He needs new, decent fitting clothing for his mental and physical health although he does not know exactly at what point in time he will need new clothing. The appellant stated that he could not afford to "put away" funds to pay for new clothing.

The Ministry referred to the Reconsideration Decision, noting that failure to lose weight may present a danger to physical health, but not the failure to provide clothing. The Ministry noted that the Appellant has reached the legislated maximum for a crisis supplement for clothing for the 12 month period preceding the date of his application. With respect to the legislative requirement that the need be unexpected, the Ministry stated that the Appellant is fully aware that he is losing weight, therefore the need is not unexpected. In response to a question from the Appellant, the Ministry stated that the medical note provided by the Appellant does not mention the effect of not receiving clothing; it refers to his weight loss. The Ministry stated that they could not answer what qualifies under the legislation as an imminent danger to physical health and stated that a crisis



supplement is for emergency needs, such as when there has been a fire or robbery and the person is suddenly left without a needed item.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision denying the Appellant's request for a crisis supplement for clothing. The Ministry determined that the Appellant's request was not for a need that was unexpected and that there was no indication that failure to receive clothing would result in imminent danger to his physical health as required under Section 57 of the Employment and Assistance for Persons with Disabilities Regulation. In addition, the Ministry determined that the Appellant had received the full entitlement for a crisis supplement for clothing in March, 2014, which is within the 12 month period preceding this request, as set out in Section 57(4)(c) of the EAPWDR..

Legislation

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*.

(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;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

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- (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.

The Appellant's position is that the Ministry has an obligation to supply the requested crisis supplement as an accommodation under the B.C. Human Rights Code. The Appellant argued that his physical and mental health is in imminent danger, that his need is unexpected because although he is losing weight, he does not know when he will need clothes and that the Ministry should provide the supplement regardless of the legislated maximum of \$100 as an accommodation of his obesity disability under the B.C. Human Rights Code.

The Appellant argued that although the doctor's note did not specifically address the effects of not receiving clothing, his own submission with his Request for Reconsideration did and he needs new, decent fitting clothing for his mental and physical health. The Appellant argued that it is impossible to save money on disability assistance of \$906.00 per month, and that his previous request in March, 2014 had been approved under the same criteria and nothing has changed with his situation since that time.

The Ministry's position is that the Appellant's request is not unexpected, that there is no indication that failure to receive clothing will result in imminent danger to his physical health and that the Appellant has already received the maximum crisis supplement for clothing in the relevant 12 month period. The Ministry made no submission with respect to the B.C. Human Rights Code.

With respect to the Appellant's argument concerning the provisions of the B.C. Human Rights Code, the Panel notes that section 19.1 of the Employment and Assistance Act states that section 46.3 of the Administrative Tribunals Act applies to the tribunal. Section 46.3 of the Administrative Tribunals Act states that the tribunal does not have jurisdiction to apply the B.C. Human Rights Code.

The applicable legislation, Section 57 of the EAPWDR, states in sub-section (4)(c) that the amount for a crisis supplement for clothing must not exceed \$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 did not dispute that he applied for this crisis supplement in June 2014 and that he previously received \$100 for a crisis supplement for clothing in March, 2014, therefore the Panel finds that the Ministry reasonably determined that he is not eligible at this time. In addition, the Panel finds that the Ministry reasonably determined that the Appellant's request

for clothing is not an unexpected expense or an item that is unexpectedly needed. The evidence shows that the Appellant was previously aware that weight loss was medically necessary, being advised by his doctors to lose weight in 2012, and he is continuing to lose weight monthly. The Panel finds that the Ministry reasonably determined that the Appellant's request does not meet the legislative requirement that failure to obtain the item or meet the expense will result in imminent danger to his physical health. While the appellant provided a note from his doctor indicating that the appellant has been advised to lose weight, and he argued that he needs new, decent fitting clothing for his mental and physical health, the appellant did not provide evidence that going without new clothing items poses a serious threat to a medical condition or some other issue that will result in imminent danger to his physical health.

The Panel therefore confirms the Ministry's decision as a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.