

PART C – Decision under Appeal

The appellant appeals the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated December 10, 2014, which denied her request for a crisis supplement for clothing on the basis that she did not meet the criteria set out in the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) section 57(1) for the following reasons:

- a) the requested item (loose fitting clothing) was not an unexpected expense or an item unexpectedly needed as required under s.57(1)(a);
- b) the requested item (warm clothing) was an item unexpectedly needed as required under s.57(1)(a);
- c) the appellant had resources available within her community but did not access them, so did not meet the requirement set out in s. 57(1)(a); and
- d) the failure to provide the requested crisis supplement for the loose fitting clothing would not result in imminent danger to the appellant's physical health, as required under s.57(1)(b)(i).
- e) the failure to provide the requested crisis supplement for the winter clothing may result in imminent danger to the appellant's physical health, as required under s.57(1)(b)(i).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57.

PART E – Summary of Facts

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

At the reconsideration, the Ministry relied on the appellant's request for reconsideration signed by the appellant on December 1, 2014, with attached pages including the following:

- three brochures: "Osteoarthritis and your Hands," "Food Sources of Calcium and Vitamin D" and "Managing Constipation in Adults;"
- a doctor's note dated Dec 2, 2014 in which the doctor wrote, "The above person needs loose fitting clothing due to medical reasons"; and
- a note from the appellant that states:
 - She has requested a clothing supplement because she has found it increasingly difficult to dress herself due to major surgery to her left hip on May 20, 2014 and in anticipation of her right hip surgery on November 24, 2014.
 - She has difficulty with mobility and is worried if there is a fire in her building, she won't have time to get herself dressed to get out in time.
 - She finds it difficult to access community resources because of medical reasons.
 - She has constant stress, a chronic illness, pain and fatigue.
 - She is in need of loose fitting clothing because of the arthritis in her hands and because of a fall in which she injured both thumbs.
 - She states, "I have been unable to budget for all the extras that come with having a disability."
 - She wrote that some of her winter clothing was accidentally taken when giving clothes away to a social service agency last summer but she did not realize this until last month.

The facts as described in the reconsideration decision are:

- In October 2013 the appellant received a crisis supplement for looser fitting clothing due to her medical conditions including pending hip surgeries.
- In September 2014 she was denied a supplement for looser fitting clothing because she had received the maximum amount for a clothing crisis supplement within the last 12 months.
- On November 4, 2014, she requested a crisis supplement for loose fitting clothing for the past surgery in May 2014 and the pending surgery in November. This request was denied.

As for the need for loose fitting clothing the reconsideration decision states:

- The appellant has been in need of looser fitting clothing since at least October 2013, when she received a supplement.
- She has continued medical treatments.
- Her neighborhood has several community agencies offering free clothing and/or clothing vouchers.
- The appellant said she had not budgeted for anticipated clothing need for looser clothing.
- She said she had not accessed community resources and has difficulty in doing so due to her medical condition.
- She goes out and has a scooter to assist her with mobility issues.

As for the need for winter clothing the reconsideration decision states:

- The appellant gave some of her winter clothing to a social services agency in error in the spring and just became aware of it.
- She does not have the clothing she needs to stay warm and dry while going out on her scooter.

PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision to deny the appellant's request for a crisis supplement for clothing on the basis that the appellant did not meet the criteria set out in the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) section 57(1) is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the appellant.

Legislation: EAPWR

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
 - (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.

The appellant's position is as follows:

- She needs a clothing supplement because she has found it increasingly difficult to dress herself due to major surgery to her left hip on May 20, 2014 and in anticipation of her right hip surgery on November 24, 2014.
- She has difficulty with mobility and wrote, "If there was a fire I would be in serious trouble because I can no longer use the rear entrance since it was blocked off last month. I now have to use several flights of stairs that take considerable time and care because of the difficulty of managing the steps. The additional time needed because of the issues with getting dressed and the steps could make the difference of me getting out alive if there was a fire."
- She is isolated and finds it difficult to access community resources because of medical reasons.
- She has constant stress, a chronic illness, pain and fatigue.
- She is in need of loose fitting clothing because of the arthritis in her hands and because of a fall where she injured both thumbs.

- She states, "I have been unable to budget for all the extras that come with having a disability"
- She wrote that some of her winter clothing was accidentally taken when giving clothes away to a social services agency last summer but she did not realize this until last month.
- In her words, "I am in need of protective clothing and accessories in the wet and cold weather on my mobility scooter because it is a great deal colder getting around on a scooter than it is walking. Being an older adult who is not dressed properly wearing wet clothing and having health issues puts me at risk of injury from exposure to cold temperatures on my scooter."

In her appeal the appellant states that she disagrees with the ministry decision because her disabilities and injuries prevent her from accessing community resources, and is one of the reasons she is on disability.

The Ministry's position is that the appellant's request for a crisis supplement for clothing does not meet the criteria set out in section 57(1) of the EAPWDR and specifically:

Criteria 1: Unexpected need

The first criteria under section 57(1) (a) is that the need for the clothing must be unexpected. The Ministry's position is that the appellant has been in need of looser fitting clothing since at least October 2013 when she received a supplement, so her need is not unexpected as required under that section. The appellant also indicated continued medical treatments, but these occurrences do not show a new need, but rather a continued need for looser clothing. As for the need for winter clothing, the Ministry's position is that the appellant just recently realized she had donated some of her winter clothing in error. Therefore the Ministry's position is that this need for winter clothing is unexpected pursuant to section 57(1)(a).

Criteria 2: Available resources

The second criteria under section 57(1)(a) is that the appellant must be unable to meet the expense or obtain the item because there are no resources available. The Ministry's position is that the appellant has access to resources because in her area there are several community agencies offering free clothing and/or clothing vouchers. The appellant has not accessed these community resources. Although she indicated that she has difficulty accessing them, she does go out and has a scooter to assist her with mobility.

Criteria 3: Imminent danger

The third criteria under section 57(1)(b) is that the failure to obtain loose fitting clothing or winter clothing will result in imminent danger to the physical health of the appellant. The Ministry's position is that the appellant's failure to obtain loose fitting clothing will not result in imminent danger to her physical health but that the appellant's failure to obtain winter clothing may result in imminent danger to her physical health.

The panel's decision

Section 57 (1) of the legislation requires that the following three criteria be met when authorizing a crisis supplement:

1. The appellant must need the supplement to meet an unexpected expense or to obtain an item unexpectedly needed, and
2. The appellant must be unable to meet the expense or obtain the item because there are no resources available to the family unit, **and**
3. The Minister considers that failure to obtain the item will result in imminent danger to the physical health of any person in the family unit.

Issue 1: Unexpected need

The evidence before the Ministry shows that the appellant first applied for a crisis supplement for loose fitting clothing due to her hip surgeries and other issues in both October 2013 (which she received) and again in

September 2014 (which was denied.). These dates both preceded her two hip surgeries in May 2014 and November 2014. The appellant knew about the upcoming surgeries, but did not budget for this needed clothing. Therefore the Ministry's determination that the expense for loose fitting clothing was not unexpected pursuant to section 57(1)(a) is reasonable based on the evidence. As for **winter clothing** the appellant had inadvertently disposed of some of her winter clothing in the spring and only recently became aware of the missing clothing..

Issue 2: Available resources

The evidence before the Ministry is that there are resources in the appellant's neighborhood that provide both clothing and/or clothing vouchers. There is no evidence that she accessed them. Although the appellant's medical conditions including her arthritis, hand injuries, shoulder pain and chronic illness cause her difficulties in accessing these resources, the Ministry's determination that she is able to go out and also has a scooter to help her with mobility and can access resources is reasonable based on the evidence pursuant to section 57(1)(a).

Issue 3: Imminent danger

As for imminent danger, there was no evidence to suggest the appellant did not have any other clothing, only that loose fitting clothing would be easier to get in and out of and that warm clothing was needed in the cold. Therefore the Ministry's determination that there is insufficient evidence of imminent danger is reasonable pursuant to section 57(1)(b)(i).

In summary,

- the panel finds reasonable the Ministry's determination that the appellant has not established that the need for loose fitting clothing is an unexpected expense as required by section 57(1)(a).
- the panel finds reasonable the Ministry's determination that the appellant has not established that she does not have resources available to cover the cost of loose fitting clothing or winter clothing as required by section 57(1)(a).
- the panel finds reasonable the Ministry's determination that the appellant has not established that her failure to obtain loose fitting will result in imminent danger to her health as required by section 57(1)(b)(i)

Conclusion

Based on the evidence and above analysis of the legislation, the panel finds that the Ministry's reconsideration decision to deny the appellant's request for a crisis supplement for clothing on the basis that the appellant did not meet the criteria set out in the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) section 57(1) is reasonably supported by the evidence, and is a reasonable application of the applicable enactment in the circumstances of the appellant. Accordingly, the panel confirms the Ministry's reconsideration decision.