

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) reconsideration decision dated November 27, 2014, which denied the Appellant a crisis supplement for clothing under Section 5 of the Employment and Assistance for Persons with Disabilities Act based on the criteria in Section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

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(1)

PART E – Summary of Facts

The Appellant was accompanied by her husband to the hearing; a Release of Information form for her husband was completed by the Appellant before the hearing proceeded.

The evidence before the Ministry at reconsideration included the following:

- Section 3 of the Request for Reconsideration, dated November 07, 2014. The Appellant states that the family does not have the funds to get winter clothing. After paying bills and food, there is only \$50.00 left. This is an ongoing stress. The Appellant states that their health is in danger because it is getting cold out. The Appellant writes that this is unfair because the moving company did not move their winter clothing. The Appellant and her husband have been struggling to get the things that they need and cannot find their sizes.
- A one-page submission from the Appellant, dated November 9, 2014. The Appellant explains that the family moved to a new address in January 2014. Three months later, the family had to move again. They have been struggling ever since. Winter is coming on this year and they lost all of their winter clothing in the January move because the moving company did not move all of their belongings. They do not have what they need to stay warm this winter.
- A table showing the supplements received by the Appellant in 2013 and 2014, dated November 20, 2014. The Appellant received a crisis supplement for clothing in February 2014.
- The Notice of Appeal, dated December 2, 2014. The Appellant writes that she is asking for assistance for her husband. She writes that she seems to ask for a lot of help, but there is no way that there is enough money to support themselves.

At the hearing, the Appellant provided evidence that she and her husband moved twice in 2014. The first move was in January, and the second move was in June. The Ministry paid for the move in January, but the movers ripped them off and did not move all of their belongings. The next day, all of the stuff that the movers left behind was gone. All of the winter clothing was therefore lost in the January move. They nearly froze last winter and the Appellant's husband has a health condition that is exacerbated in the cold weather. The Appellant stated that she currently does not have a winter coat and has only running shoes to wear.

In response to the panel's questions, the Appellant and her husband said that they visited at least four community resources to find replacement winter clothing, but the pickings are slim and there is nothing available in the Appellant's size.

In response to Ministry questions, the Appellant and her husband noted that although they have a car, there was no room to pick up the items that the mover's left behind during the January move. They did not take any winter clothing with them during the January move. In addition, they noted that the prices at some of the community services are as expensive as buying new clothing.

In addition, the Appellant read from three documents:

- A cheque stub from the last assistance cheque in December showing a total support amount of \$949.06. After the deductions, the Appellant read that the remaining assistance amount was \$694.06.
- A utility bill in the amount of \$242.45.
- A telephone bill in the amount of 299.00

The panel determined that the additional evidence was admissible under section 22(4) of the Employment and Assistance Act (EAA). The cheque stub was in support of the Ministry record showing the amount of assistance received by the Appellant and the bills were in support of the Appellant's November 7th submission that there were no funds available to buy winter clothing.

At the hearing, the Ministry stated that in order to receive a crisis supplement for clothing under section 5 of the EAPWDA, the criteria under section 57(1) of the EAPWDR must be met: the supplement is required to meet an unexpected expense, no other resources are available to meet the need, and there is imminent danger to physical health. The Ministry states that none of these criteria were met in the Appellant's case. Because winter occurs every year, winter clothing is not an unexpected expense. The Ministry stated that the Appellant had almost a full year in which to prepare for the upcoming winter. With the assistance amount available (taking into account the Appellant's costs for shelter) for the Appellant and her husband, there were resources available to budget for winter clothing. Finally, because there were resources available to budget for winter clothing, the Ministry stated that the Appellant does not consider that a failure to assist will result in danger to the Appellant's physical health.

The panel finds that the Appellant and her husband moved in January 2014 and that the winter clothes were lost during this move. The winter clothes were lost approximately 9 months prior to the denial of a crisis supplement for winter clothing by the Ministry on October 27, 2014.

PART F – Reasons for Panel Decision

The issue is whether the reconsideration decision which denied the Appellant a crisis supplement for clothing under Section 5 of the Employment and Assistance for Persons with Disabilities Act based on the criteria in Section 57 of the Employment and Assistance for Persons with Disabilities Regulation was a reasonable application of the legislation, or reasonably supported by the evidence, in the circumstances of the Appellant.

The legislation provides the following:

Employment and Assistance for Persons with Disabilities Act:

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.

Employment and Assistance for Persons with Disabilities Regulation:

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*.

...

The Ministry argues that the Appellant did not meet any of the criteria under section 57(1) of the EAPWDR because winter clothing is not an unexpected expense and the Appellant had resources available (calculated from the total family assistance minus shelter costs). There was therefore no imminent danger to physical health in the Appellant's circumstances.

The Appellant argues that it is the mover's fault that the winter clothing was lost in the move of January 2014. The Appellant argues that the local community resources for winter clothing can be expensive and it is difficult to find the right sizes. In addition, after paying bills and shelter costs, the Appellant argues that there are no remaining resources to purchase winter clothing.

The first criteria under section 57(1) is that the supplement is required to meet an unexpected expense or obtain an item unexpectedly need. The panel finds that because winter is a yearly event, the need for winter clothing is not unexpected. Further, because the Appellant's winter clothing was lost 9 months before replacement winter clothing was needed, the cost of replacement was also not unexpected. Therefore the panel finds that Ministry's decision that winter clothing expenses were not unexpected under section 57(1) is reasonably supported by the evidence.

The second criteria under section 57(1) is that there are no other resources available to the family unit. The panel finds that although the Appellant and her husband did access community resources and were unable to find suitable winter clothing and although they have other bills to pay, there are limited other resources available (approximately \$50.00 per month) that the Appellant could have used to budget for replacement winter clothing. In addition, the Appellant did receive a crisis supplement for clothing in February 2014 after the winter clothes were initially lost. Therefore the panel finds that the Ministry's decision that the Appellant did have other resources for winter clothing was reasonably supported by the evidence.

The final criteria under section 57(1) is that a failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit. The Appellant and her husband gave evidence that his health condition is exacerbated by the cold. The panel finds however that there was insufficient evidence to show imminent danger to their physical health from the cold when they applied for the supplement in October 2014 and therefore finds that the Ministry's decision that the Appellant did not have imminent danger to their physical health was a reasonable application of the legislation.

The panel finds that the Ministry's denial of a crisis supplement for clothing under section 5 of the EAPWDA was a reasonable application of the legislation because the Appellant did not satisfy all of the criteria under section 57(1) of the EAPWDR. The panel therefore confirms the Ministry's reconsideration decision.