

PART C – Decision under Appeal

The decision under appeal is the reasonableness of the ministry decision of March 20, 2015 in which the ministry determined that the appellant was not eligible for \$175 of the \$350 she requested as a clothing supplement available to persons living in specified special care facilities for the period November 2014 to April 2015 because she did not satisfy the ministry that she had no funds available from her comforts allowance or other resources as required by Section 50 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), in particular because she failed to provide evidence to show that she had a medical condition which necessitated frequent clothing replacement and failed to provide receipts to justify her purchases.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 1, 50 (1)

PART E – Summary of Facts

The appellant is a recipient of disability assistance and resides in a special care facility. The evidence before the ministry at the time of reconsideration included:

- appellant's request for reconsideration received by the ministry March 11, 2015 in which the appellant stated that:
 - she needed new shoes, running shoes because she had no outdoor shoes that are practical or comfortable and also requires a light rain jacket, pants, shorts light T-shirts and at least 3 bras;
 - she feels discriminated and hurt by the ministry because all of her peers received the full clothing allowance they requested;
 - she was the only resident asked to provide a doctor's note.
- appellant's adult care clothing allowance request dated November 2014 for a winter jacket, winter boots, socks, underwear, shirts, sweaters pants and pyjamas totaling \$350;
- bank activity statement for the period November 3 – November 10, 2014;
- handwritten, undated note from the appellant to the ministry revising her clothing allowance, itemizing and explaining her clothing needs as follows:
 1. 2 bras- \$25 each = \$50: (good ones) I have sports bras not sturdy enough – need 2 good bras
 2. runners - \$25: my runners were old and giving me blisters
 3. shoes - \$25: I only have summer shoes
 4. sweaters - \$25 each = \$50
 5. panties - \$20/package (good ones) my panties are full of holes
 6. boots - \$45: proper
 7. 2 shirts \$20 each = \$40TOTAL : \$255 plus 12% taxes = \$285.60
- undated ministry printout showing that the appellant received special care facility clothing allowances of \$350 in May 2013, November 2013 and May 2014 and \$175 in November 2014.

In her Notice of Appeal dated March 27, 2015 the appellant stated that everyone in her special care facility received \$350 except one other resident and herself, and she does not understand why everyone else received the amount they asked for, and does not understand why she was asked to provide a doctor's note for clothing. The appellant added that she does not drink or do drugs and has a staff member assist her with shopping, and feels angry, frustrated and stressed because of the ministry's decision.

At the hearing the appellant tendered the following documents as new evidence:

- letter from the care facility occupational therapist and case manager dated April 20, 2015 stating that their clients have a need to purchase seasonal clothing and asking the ministry to explain the discrepancy in the reduction of clothing allowances issued to two of the clients who requested fall clothing allowances, and clarification from the ministry in order to assist clients with their clothing allowance requests in future;
- letter written by the appellant written on or about April 19, 2015 consisting of two sections:
 1. an itemized list of how she spends her comforts allowance, including: deodorant, shampoo/conditioner, hand soap, diabetic diet type 1, toothpaste for sensitive teeth, dry mouth spray (\$12.00) recommended by dentist, Q-tips, hand and foot lotion, body wash, haircuts, foot care because due to her diabetes she has to have a specialist cut her toenails at least once every 6 weeks, diabetic socks costing \$12 per pair;

2. a reiteration of the arguments noted by the appellant in her request for reconsideration and notice of appeal.

The panel finds that the April 20, 2015 letter from the occupational therapist is not admissible as evidence in support of the appellant's position under EAA Section 22 (4) because it does not contain relevant facts in support of the information that was before the ministry at the time of reconsideration.

The panel also finds that Section 1 of the letter tendered by the appellant is not admissible as evidence in support of the information before the ministry at the time of reconsideration under EAA Section 22 (4) because it introduced new evidence that was not before the ministry at reconsideration concerning the details of how she spends her comforts allowance. Section 2 of the letter is accepted as argument because it does not contain any additional facts.

The ministry relied on its reconsideration decision which found that:

- the appellant has received four special care facility clothing allowances of \$350 distributed twice a year for the past 2 years;
- the appellant's request is almost the same as her fall 2013 clothing allowance request with the exception of gloves and scarves instead of pyjamas;
- no documentation was submitted to confirm that the appellant has a medical condition which warranted such a frequent replacement of the clothing items she requested;
- the appellant had a balance of \$75 in her bank account in November 2014 and failed to provide an explanation of how she spent withdrawals of \$60 and \$80 from her account;
- the appellant provided a revised clothing allowance estimate of \$285.60 but did not enclose receipts to confirm her purchases to date.

At the hearing the ministry representative explained that the ministry policy is discretionary as to amount and follows the same rules as EAPWDR Section 50 (1). Although the legislation is silent as to when clothing supplements are issued they are normally issued in the spring and fall.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry decision of March 20, 2015 in which the ministry determined that the appellant was not eligible for \$175 of the \$350 she requested as a clothing supplement available to persons living in specified special care facilities for the period November 2014 to April 2015 because she did not satisfy the ministry that she had no funds available from her comforts allowance or other resources as required by Section 50 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), in particular because she failed to provide evidence to show that she had a medical condition which necessitated frequent clothing replacement and failed to provide receipts to justify her purchases.

The relevant legislation is as follows:

EAPWDR:

Definitions

1 (1) In this regulation:

"**special care facility**" means a facility that is a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the minister under subsection (3);

Clothing supplement for people in specified special care facilities

50 (1) The minister may provide a supplement, for the purchase of necessary clothing, to a person with disabilities who is eligible for disability assistance and receives accommodation and care in a special care facility if

- (a) clothing is not provided in the facility,
- (b) there are no funds available from the recipient's comforts allowance to purchase the clothing, and
- (c) there are no resources available to the recipient's family unit to pay for the clothing.

The appellant argues that all of the items of clothing totaling \$350 that she requested in November 2015 were necessary items and that she was unable to pay for them from her \$95 monthly comforts because all of her comforts money goes to necessary sundry purchases. She also argues that she has no other financial resources to purchase the clothing she needs.

She believes that in her amended request for \$285.60 she has provided a detailed list of the items she requires, the cost of each item, and in a number of instances the reason why she requires the item. She does not believe that she should be required to submit medical evidence to prove that she needs to buy new clothing, and she does not believe that she should be required to submit receipts for her actual purchases. She argues further that all but one of the other residents of her care facility received the usual \$350 semi-annual clothing allowance and she does not think it is fair that her allowance should be reduced.

The ministry argues that no documentation was submitted to confirm that the appellant has a medical

condition which warranted such a frequent replacement of her clothing, that the appellant did not satisfy the ministry that did not have the funds available from her comforts allowance to purchase the additional clothing and that there are no resources available, that her fall 2014 request was virtually identical to her fall 2013 request, that she failed to explain withdrawals from her bank account, and that the appellant did not provide receipts to justify her purchases to date.

Panel Decision

EAPWDR Section 50(1) states that the ministry may provide a supplement for the purchase of necessary clothing to an eligible recipient of disability assistance living in a special care facility if

1. the clothing is necessary;
2. there are no funds available in the recipient's comfort allowance;
3. the recipient has no other available resources.

The amount of a supplement paid by the ministry under Section 50 (1) is within the discretion of the ministry.

1. Necessary clothing

The evidence before the ministry at the time of reconsideration shows that the appellant's clothing allowance requests for spring and fall of 2014 were almost the same as those requested in 2013. In her amended request for a clothing allowance of \$285.60 the appellant provided a detailed list of the cost of the items she considered necessary, and the condition of some of her clothing that needed replacement. However the appellant failed to provide evidence to explain why she had to replace on such a frequent basis so much of the clothing that she had purchased with clothing allowances totaling \$1,050 for 2013 and the first half of 2014.

The panel finds that the ministry reasonably determined that the normal wear and tear of items such as jacket, boots, runners and sandals owned by the appellant should have exceeded a year's duration, and that the appellant failed provide information to satisfy the ministry that she had medical or other special circumstances which made replacement of the same items on an annual basis a necessary expense.

Although the appellant's amended request is undated it is clear that the appellant was advised of her \$175 clothing supplement on January 6, 2015, and did not submit receipts for her purchases within 30 days as required by the ministry on its prescribed adult care clothing allowance request. Therefore the ministry's determination on reconsideration that she had failed to provide receipts to justify her clothing expenditures was reasonable.

2 and 3. No Comforts Allowance Funds or Other Resources Available

In her request for reconsideration the appellant did not provide detail as to how she spent her cash withdrawals of \$60 and \$80 during the month of November 2014 and did not provide information to the ministry explaining why she is unable to use any of these funds for necessary clothing purchases.

No evidence was before the ministry at reconsideration with respect to her ability to purchase clothing with other available resources, and the reconsideration decision did not deal with this issue separately from its findings regarding use of comforts allowance funds.

The panel finds that the ministry reasonably determined that the appellant failed to provide sufficient information to satisfy the ministry that she had no resources available from her comforts allowance or other available resources to purchase at least some of the clothing she requires.

In conclusion the panel finds that the ministry decision to declare the appellant ineligible for \$175 of the \$350 special care facility clothing allowance she requested in November 2014 because:

- she did not satisfy the ministry that her requested clothing purchases were necessary due to a medical condition that required frequent replacement of her clothing; and
- she did not provide sufficient information to satisfy the ministry that she had no resources available from her comforts allowance or from other resources

was a reasonable application of the applicable enactment in the appellant's circumstances, and confirms the decision.