

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated June 8, 2015 in which the ministry denied the appellant a crisis supplement for clothing because the request did not meet the criteria in the Employment and Assistance Regulation (EAR) Section 59. The legislation requires that the need for a crisis supplement be unexpected, that the person not have the resources available, and that failure to provide the supplement would result in imminent danger to his or his family members' physical health or the removal of a child under the Child, Family and Community Services Act. In the reconsideration decision the ministry determined the appellant's request did not meet these three criteria.

PART D – Relevant Legislation

Employment and Assistance Regulation section 59.

PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

- A Request For Reconsideration form undated, completed by the appellant. In the form the appellant writes he received a \$50 crisis supplement for clothing in a previous month that he used to purchase clothes. He writes that while at the hospital his clothes, shoes, and medications were stolen from this car. He adds that, as a diabetic, he requires proper footwear and socks and despite attempts to replace his lost items, he hasn't been able to obtain new footwear. He wrote that he is afraid his health is getting worse, especially his feet.

In the Notice of Appeal dated June 16, 2015 the appellant wrote that his footwear and socks are imperative because he is a type 2 diabetic and that he will have a note from his doctor.

At the hearing the appellant explained to the panel that his doctor has told him he needs to change his socks daily in order to maintain proper foot hygiene and prevent infection. Regarding the theft from his car, he said that he could not have claimed the loss of his clothes on his auto insurance because his car did not have theft coverage and even if it did the deductible would have been \$300. He left his belongings in the back seat of the car and did not hide them because he didn't expect anyone would steal used clothing and shoes. He is not sure how the thieves gained entry to the car since he couldn't see signs of forced entry, however he maintains he locked the car. When he reported the break-in to the police they asked what was stolen, and when he told them it was clothing and medication, they did not attend to investigate or provide him with a police file number. He told the panel that the Medical Services Plan replaced his stolen medications.

He said he received a letter from his doctor that he dropped off at the ministry office sometime between June 16th and the hearing date but he did not bring a copy of the letter to the hearing. He did not submit the doctor's letter as evidence to the Employment and Assistance Appeal Tribunal. He told the panel that the letter confirmed he is a diabetic, requires proper footwear, and that he needs to maintain his foot hygiene to prevent infections. The ministry told the panel that there is no record of the letter being delivered to the local ministry office. The appellant also told the panel that his doctor has recommended he only use new socks versus used socks from a thrift shop. He said that due to a past injury, his feet are different sizes and he requires "proper" footwear but he does not require custom made shoes or orthotics. In the past he has been able to find appropriate shoes at local department stores but not at local thrift shops.

The appellant told the panel that he receives less money from CPP than the ministry claims in the reconsideration decision. In the decision the ministry writes the appellant receives \$180.18 in income assistance from the ministry and \$464.82 from CPP, however, the appellant explained that he has an outstanding debt to the Canadian Revenue Agency (CRA) so half of his CPP amount is garnisheed leaving him a CPP income of only \$232.41 per month.

At the hearing the ministry told the panel the appellant has been approved for other crisis supplements this year including \$375 in March for shelter, \$375 in April for shelter, \$20 in May for food, \$50 in May for clothes, and \$20 in June for food for a total of \$840 year to date adding that his annual maximum for crisis supplements is \$1220. The ministry told the panel that 9 days after the appellant received a \$50 crisis supplement for clothing he submitted a new request for a \$50 crisis supplement for clothing. The ministry continued that it is understandable that claiming lost clothing on his vehicle insurance may not be possible, however, the appellant should have taken more care when

parking his car by better securing his belongings such as placing them in a locked trunk or taking his clothes with him.

Regarding the appellant's CPP income being reduced to \$232.41, the ministry explained that the legislation requires that when calculating the amount of income assistance the appellant is entitled to, the ministry must use the gross amount of CPP he receives, in this case \$464.82. The appellant has an arrangement with the CRA to repay a debt resulting in a reduction of his CPP income by half until the CRA debt has been repaid, however, the ministry calculates his income assistance based on the full \$464.82.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision that the appellant does not qualify for a crisis supplement for clothing because his need does not meet the criteria set out in the EAR Section 59. The legislation requires that the need for a crisis supplement be unexpected, that the person not have the resources available, and that failure to provide the supplement would result in imminent danger to his or his family members' physical health or the removal of a child under the Child, Family and Community Services Act. In the reconsideration decision the ministry determined the appellant's request did not meet these three criteria.

The Legislation

Employment and Assistance Regulation (EAR) section 59

- 59** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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 income 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.

Arguments of the Parties

It is the ministry's position that the appellant's request for a crisis supplement does not meet the criteria as set out in EAR section 59 (1) requiring that the need for the supplement be unexpected, that there are no other resources available, and that the failure to meet the need would result in imminent danger to the health of the person/family unit or cause the removal of a child from the home. The ministry argues that because the appellant did not make reasonable efforts to secure his belongings having the items stolen from his car could not have been unexpected. The ministry

maintains that there is insufficient evidence to support that his health is in imminent danger if he fails to obtain new shoes. The ministry argues that the appellant has alternate resources to purchase the shoes because he receives a monthly support allowance that is intended to pay for day-to-day items such as shoes and car insurance.

It is the position of the appellant that the theft of his shoes and clothes was unexpected since his car was locked. He argues that, because of his diabetes, without properly fitted shoes he is at risk of foot infections creating a danger to his health. He argues that, because his monthly CPP income has been reduced by half, he does not have enough money to replace the shoes and that he has tried to find shoes at local thrift shops but he can not find shoes that fit properly and does not have theft insurance.

Panel Decision and Reasons

Regarding EAR s59 (1)(a), the criterion that the funds are to be for an unexpected expense, the ministry determined the theft of his clothes, shoes, and medication was not unexpected because the items were insufficiently secured. The appellant told the panel that he locked his car but he left the items in the backseat because he didn't expect them to be stolen. The panel considered that the items, including new shoes and medications, were in plain view of the backseat of the car. Although anticipating the particular time that a theft from a vehicle will occur is not possible, it is reasonable to assume that items such as medications and new shoes are likely to be a target of theft if seen by a thief. The panel cannot determine if the items were in fact unsecured or how the thief gained entry to the vehicle as the appellant testified he locked the vehicle but he found no sign of forced entry. However, the panel finds that since the items were left in plain view it is reasonable that they could have been a target for a thief. For this reason, the panel finds the ministry was reasonable when it found that insufficiently secured belongings are subject to being stolen and therefore the appellant's need to replace his stolen shoes and clothes cannot be considered an unexpected need.

Regarding the ministry's determination that the appellant has alternate resources available to obtain the items, the ministry determined that the appellant's monthly support allowance is intended for day-to-day items such as shoes and clothing. The appellant told the panel his CPP is garnisheed so he receives less money each month than is shown in the reconsideration decision and he cannot find shoes that fit at the thrift store. The panel considered the appellant's testimony that he doesn't require custom shoes but only store bought shoes that fit properly. It is not known how many thrift stores he visited but it is reasonable to expect the selection to vary at these stores. The appellant told the panel his doctor recommends he buy new shoes only; however, he has not provided any documentation to support this recommendation. The panel considered the appellant's argument that his CPP income is garnisheed leaving him with little money to purchase personal items. The panel finds the ministry was reasonable to calculate the appellant's monthly support payments based on the gross amount of his CPP income. The panel finds the ministry was reasonable to determine the appellant has alternate resources available to obtain the items.

Regarding the ministry's determination that the appellant does not face imminent danger to his or his family's health if he fails to obtain the requested items the panel considered that the ministry's argument that the appellant has not provided sufficient evidence to support his argument that he is susceptible to infections without proper fitting shoes nor has he provided sufficient evidence to support that the possible infections present an imminent danger to his health. The appellant told the panel he had a letter from his doctor but he did not provide a copy to the panel for consideration.

Without this information from the appellant's doctor the urgency his medical condition cannot be determined. The panel finds the ministry was reasonable to determine that the appellant does not face imminent danger to his or his family's health if he fails to obtain his new shoes or clothing.

The panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore confirms the ministry's decision.