

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“Ministry”) reconsideration decision dated May 27, 2015 which held that the Appellant is not eligible for a crisis supplement for clothing pursuant to section 59 of the Employment and Assistance Regulation (“EAR”). The Ministry determined that the Appellant’s request for the crisis supplement does not meet three criteria in section 59 of the EAR:

1. The Appellant requires the crisis supplement to meet an unexpected need or obtain an item unexpectedly needed [subsection 59(1)(a)]; and
2. He is unable to meet the expense or obtain the item because there are no resources available [subsection 59(1)(a); and
3. Failure to meet the expense or obtain the clothing items will result in imminent danger to his physical health [subsection 59(1)(b).

## PART D – Relevant Legislation

Employment and Assistance Regulation - EAR - section 59

## PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

1. A letter from an advocate dated May 26, 2015 stating that the Appellant informed the Ministry of the following:

- His clothes were stolen while doing laundry.
- He tried to get clothing through three community resources but was not able to find anything that fit him.
- He does not have any money to purchase new clothing and requires a \$100 crisis grant.
- He needs pants, shirts, underwear, and socks.
- He has only one change of clothes.

2. Information from the Ministry's record indicating that:

- The Appellant is a single recipient of Persons with Persistent Multiple Barriers ("PPMB") benefits.
- On April 15, 2015 he requested a clothing supplement. He indicated he was advised he could not have a clothing voucher until April. He requested \$100 for clothing.
- The Ministry informed him that because he is not in long term care, he does not meet the criteria for a clothing supplement. The Ministry therefore assessed his request as a crisis supplement for clothing
- The Appellant advised that he had not had any emergency. He spent his support funds on food and wanted to be issued a clothing benefit.

3. A Request for Reconsideration signed by the Appellant on May 6, 2015 in which he stated that he was requesting an extension of time to supply submissions from his advocate.

The Appellant did not attend the hearing. After confirming he had been notified of the date, time, and location of the hearing, the panel proceeded in his absence pursuant to section 86(b) of the Employment and Assistance Regulation.

### *Additional Submissions*

Subsequent to his Request for Reconsideration, the Appellant submitted a Notice of Appeal dated May 31, 2015 in which he stated that the high cost of living and inadequate daily funds restrict him from buying food and clothing. The panel accepts this submission as argument, in particular, substantiating the Appellant's position in the advocate's letter that he does not have any money to purchase new clothing.

### *Oral testimony*

At the hearing, the Ministry stated that it had some new information that should have gone into the record; however, it did not want to provide it in the Appellant's absence without him having the opportunity to respond. The Ministry therefore relied on its reconsideration record, elaborating as follows in response to questions from the panel:



- The Ministry expects that people will remain in the laundromat when doing their laundry as theft of clothing from laundry facilities is a longstanding problem.
- Most laundry facilities have signs warning people not to leave their laundry unattended.
- The clothing supplement and the crisis supplement for clothing are two different programs, with the former only applicable to clients who reside in care homes.

The panel admits the Ministry's statements under section 22(4)(b) of the *Employment and Assistance Act* as testimony in support of the information and records that were before the Ministry at the time the decision being appealed was made. The panel finds that the testimony substantiates the information in the Ministry's record that indicated the Appellant's clothes were stolen and that the Appellant initially applied for a clothing supplement.

## PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's reconsideration decision of May 27, 2015 which held that the Appellant is not eligible for a crisis supplement for clothing pursuant to 59 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. The Ministry determined that the Appellant's request did not meet the criteria for an unexpected need and a lack of resources to meet the need as required by subsection 59(1)(a) and that the criterion of imminent danger to physical health was also not met pursuant to subsection 59(1)(b).

The legislation sets out the following eligibility criteria::

### **EAR Crisis supplement:**

Pursuant to section 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, and

(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.

The panel notes that all of the criteria must be met in order for the Ministry to authorize a crisis supplement. The Ministry noted that the Appellant is a recipient of PPMB benefits. He therefore meets the criterion of being eligible for income assistance pursuant to section 59(1). The panel provides the following analysis for the criteria the Ministry determined were not met:

*Subsection 59(1)(a): Crisis supplement required to meet an unexpected expense or obtain an item unexpectedly needed:*

*Appellant's position*

In his advocate's submission the Appellant argued that his situation fits the criteria in the legislation for a crisis grant because there was an unexpected situation in that his clothes were stolen.

*Ministry's position*

The Ministry argued that the theft of the Appellant's clothing is not considered an unexpected event because unsecured belongings are always subject to the possibility of being stolen. The Ministry stated that it expects clients to not leave clothing unattended and noted that there is signage in laundry facilities warning people not to do so. The Appellant did not provide any evidence to support his statement that his clothes were stolen and he did not provide an explanation concerning the discrepancy between his initial request for an annual clothing supplement where he confirmed that his need was not unexpected, and the information from his advocate indicating his clothing had been stolen.

*Panel decision*

The panel finds that the Ministry reasonably determined the "unexpected need" criterion was not met. The Appellant submitted that his need for clothing was due to the theft of his clothing; however, as the Ministry noted, leaving one's clothing unattended while doing laundry puts them at risk of theft. The theft was therefore foreseeable and the Appellant's initial information that he did not have an unexpected need for clothing conflicts with his advocate's information that his clothes were stolen. The panel finds that the Ministry reasonably required information to corroborate the theft, although even that would not make the theft unexpected. Given that there is no indication the Appellant kept a close watch on his clothing while doing laundry, the panel finds that the Ministry reasonably determined that his need for a crisis supplement for clothing was not unexpected as required under EAR subsection 59(1)(a).

*Subsection 59(1)(a): Unable to meet the expense or obtain the item because there are no resources available to the family unit:*

*Appellant's position*

In his advocate's submission the Appellant argued that he does not have funds to replace his clothing. In his Notice of Appeal, he argued that the high cost of living and his meager income of \$14.83 per day are impediments to purchasing food and clothing. The decision-makers would not be able to live on that much, and it is nice to have a cheque every two weeks.

*Ministry's position*

The Ministry argued that the "no resources available" criterion was not met because the Appellant's monthly support allowance is to be used for day to day items such as clothing. The Ministry noted that on April 15, 2015 the Appellant stated he had used his funds to purchase food. The Ministry argued there was nothing to indicate the Appellant would not be able to budget in order to gradually replace his clothing. At the hearing, the Ministry submitted that the Appellant may need to access a number of community resources in order to find clothing that fit him.

*Panel decision*

The panel finds that the Ministry reasonably determined the Appellant did not demonstrate a lack of resources. The evidence was that the Appellant received PPMB assistance which is intended to cover living expenses including the cost of clothing. While the evidence indicates the Appellant did access a number of community resources (his advocate reported that he contacted three places), there is no information on why none of them had clothing that fit him. While he argued that his income is not sufficient for his needs, he also stated that he spent his support allowance on food. There is no evidence that he attempted to budget a portion of his support allowance for clothing. The panel therefore finds that the Ministry reasonably determined that the "no resources" criterion in EAR section 59(1)(a) was not met.

*Section 59(1)(b): Failure to meet the expense or obtain the item will result in imminent danger to physical health:*

*Appellant's position*

The Appellant submitted that if he continually wears dirty clothes, his health is in imminent danger because people might retaliate against him for smelling badly, and wearing clothing damp from perspiration can cause skin infections.

*Ministry's position*

The Ministry argued there is insufficient evidence to support a probability of immediacy that failure to obtain additional clothing will place the Appellant's health in imminent danger. The advocate indicated the Appellant has two sets of clothing, and while retaliation for smelling bad and skin infections may be a possibility without clean clothes, the Ministry was not satisfied that these are a definite, immediate result. At the hearing, the Ministry further argued that there are a lot of people on the streets wearing smelly clothing and most of them do not face imminent danger to health.

*Panel decision*

The panel finds that the Ministry reasonably determined that there is insufficient information to establish that failure to obtain clothing will result in imminent danger to the Appellant's health. There is no indication that the Appellant could not switch between his two sets of clothing in order to address his concerns, and there is no evidence that anyone retaliated against the Appellant for wearing smelly clothes or that he has developed any skin infections from wearing clothing damp with

perspiration. These are speculative events at best, not imminent danger for which the dictionary definition is, "impending/ soon to happen". The panel therefore finds that the Ministry reasonably determined the criterion of "imminent danger to physical health" under EAR subsection 59(1)(b) was not met.

*Conclusion*

The panel confirms the Ministry's reconsideration decision that denied the Appellant's request for a crisis supplement for clothing, finding that the decision was reasonably supported by the evidence, and a reasonable application of the applicable enactment (EAR section 59) in the circumstances of the Appellant.