

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the Ministry”) decision dated July 24, 2015 denying an annual \$300 clothing allowance. The Ministry noted there is no annual clothing allowance under the Persons with Disabilities (EAPWDR) Regulations and the Appellant did not meet the requirements for a Crisis Supplement, because the item requested was not an unexpected expense or an item unexpectedly needed and that failure to provide the item would result in imminent danger to his physical health.

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

PART E – Summary of Facts

The panel reviewed the following documents included in the appeal record:

- A Notice of Appeal dated August 10, 2015 stating, “My health reasons require special clothing.”
- A letter to the Reconsideration Branch dated July 24, 2015 noting that the Appellant has a phobia of getting a disease from wearing used clothing and that he would not wear them due to the belief that they are dirty and possibly diseased from someone else, or from where the clothing were stored even if they have been washed. He also notes that used clothing does not fit him properly; he is diabetic and has issue with weight, nerve pain in his legs and feet, and also he has severe heart and diabetic needs. He tried to exercise to be healthy. He tries to buy new clothing on pay day, but sometimes has extra costs for food and other needs related to his diabetes. He needs special socks and items because of diabetes and needs \$300 for a yearly clothing allowance.
- A print-out from his pharmacy with a list of medications he takes
- Information from HealthLinkBC about diabetes and the importance of shoes and socks that fit well
- The Request for Reconsideration dated June 2, 2015, noting the Appellant contacted the ministry for an annual clothing allowance of \$250 because his clothing is worn out, and he requires t-shirts, undergarments and pants and do not receive enough assistance to buy clothing because he has other commitments that are required to be paid and will be cut off if they are not. The Ministry stated that the Appellant’s request for crisis supplement has been denied because he had not identified an unexpected expense as clothing wearing out over time is expected, he had not explored alternate resources to meet the need because the Appellant will not wear used clothing, and that it is the Ministry’s opinion that failure to obtain new clothing will not result in imminent danger to his physical health.

At the tribunal hearing, the Ministry relied on the evidence in the appeal record and clarified that even if the Appellant had a medical diagnosis for his phobia, there is no provision in the legislation to provide a clothing allowance however there is a supplement available to help diabetics purchase compression socks.

The Ministry also noted that if the Appellant had qualified for a crisis supplement for clothing, the maximum allowance is \$100 per year.

At the hearing the Appellant clarified that he’d be willing to take the \$100 and noted he had asked for \$300 because he was upset about the original request being denied. He also clarified that the Ministry pays for his prescriptions and his test strips are also covered, but that he needs to eat fresh vegetables and diet is important for a diabetic. He does receive a diabetic diet allowance but that is gone within the first week. Prices have gone up for everything except what he receives in his cheque. He has tried to budget and even had his cheque divided into two, but that didn’t really work so he went back to having the whole amount direct deposited after a month or two. He tried getting food from the Salvation Army but it was moldy and he had to throw it away. He never seems to have extra money to spend on clothing, something always comes up.

The Appellant noted he has spoken to his family doctor about his phobia regarding clothing but does not have any documentation from his doctor regarding this. He believes his phobia seems to be growing and states that even if he’s invited to a restaurant he won’t go because he is worried about germs. Even hand-me-down clothing from his own family is not acceptable to him. His doctor indicated that if the phobia continued they could look into prescribing something for that. This is a new physician, his last physician suggested he find a new doctor.

The Appellant noted that it is difficult to find work due to the nerve pain in his feet and legs and he doesn’t want to let anyone down.

The Ministry did not object to the new information presented by the Appellant regarding his attempts to budget, his diet allowance and prescriptions, and his phobia. The panel admits this evidence as per Section 22(4) of

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the Employment Assistance Act as it is in support of the information provided to the Ministry prior to Reconsideration.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's decision to deny the Appellant a crisis supplement for clothing was a reasonable application of the legislation in the circumstances of the Appellant. Specifically, whether the Ministry reasonably determined that the Appellant did not meet the criteria for a crisis supplement because the item requested was not an unexpected expense or an item unexpectedly needed, and also the Appellant had not demonstrated that failure to provide the item would result in imminent danger to his physical health.

Relevant Legislation:

Section 5 EAPWDA 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.

Section 57 EAPWDR 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.

(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.

The Parties' Positions

The Appellant argues he has no funds available to purchase new clothing, and is unable to wear used clothing due to his size, his diabetes, and his phobia about catching a disease from wearing used clothing. He states he tries to buy clothing each payday but has other expenses and so has not been able to. Prices for food have gone up every year but not his cheque amount and he never seems to have enough money to buy clothing.

The Ministry agrees that the Appellant does not have the resources available to him to purchase \$300 of new clothing for a year but notes that there are certain criteria that must be met to receive a crisis supplement. The Ministry argues that normal wear and tear of clothing is something that can be anticipated, and so the need to purchase clothing to replace worn clothing is not unexpected and this request does not meet the criteria in the legislation. The Ministry also argues that the Appellant's health is not in imminent danger if the supplement is not provided. Also, the amount requested is three times the maximum annual amount set out in legislation.

Panel Decision

According to Section 57 of the EAPWDR, there are certain conditions that must be met in order to issue a crisis supplement. The first condition is that the item must be an unexpected expense or an item unexpectedly needed. The panel finds that the Ministry was reasonable in its conclusion that this criteria was not met, as the Appellant was requesting the allowance to replace worn clothing and it can be anticipated that clothing will require replacement when it wears out. The second is that the Appellant does not have available resources to meet that need. The Ministry does not dispute the Appellant's assertion that he does not have the financial resources to purchase \$300 of new clothing. The third criteria is that failure to obtain the item will result in imminent danger to the Appellant's physical health, and the Panel finds that the Ministry reasonably concluded that there is no information indicating that the Appellant's health is in imminent danger due to lack of (new) clothing. All three criteria must be satisfied in order to be eligible for a crisis supplement. The panel finds that the Ministry's Reconsideration Decision denying the Appellant a crisis supplement is a reasonable application of the legislation and supported by the evidence in the Appellant's circumstances. The panel confirms the Ministry's reconsideration decision.