

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated October 13, 2015 which found that the appellant is not eligible for a crisis supplement to purchase clothing as the appellant did not meet the criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry was not satisfied the evidence established that:

- The need for the item or expense is unexpected;
- Failure to obtain the item will result in imminent danger to health; and,
- There are no alternative resources available to obtain the item or meet the expense.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)– Section 57

## PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The appellant is a “sole recipient” of disability assistance.

The evidence before the ministry at the time of the reconsideration decision included the Crisis Supplement Request Form dated August 10, 2015 and Request for Reconsideration dated September 27, 2015.

The evidence before the ministry at the time of the reconsideration decision also included the following documents:

1. A letter dated September 25, 2015 prepared by a legal advocate.
2. A hand written note by the legal advocate requesting acceptance of the late submission.

### ***Appellant’s additional information***

In his Notice of Appeal dated August 14, 2015, the appellant wrote:

- a. Expense was unexpected
- b. Lack of clothing does result in imminent danger to health
- c. There are no alternative resources available
- d. The ministry’s reasoning is faulty

At the hearing, the ministry noted the PWD status of the appellant and that to qualify for a crisis supplement three criteria must be met:

- The expense was unexpected;
- Failure to obtain the supplement would result in imminent danger to the physical health of the appellant;
- There were no other resources available

The ministry believes all three criteria were not met in that:

- The request for winter clothing is not unexpected as the request was made in August 2015, three months before winter. As well, the appellant claimed weight gain while being incarcerated created the need for new clothing but no evidence of this was offered. Lastly, that after leaving his clothing for eight months in an abandoned apartment, the landlord disposed of the items, this should not have been unexpected by the appellant..
- No imminent danger to physical health was established by the appellant as the request was made in August 2015 for the winter clothing.
- Resources were available to the appellant with financial support being given by the ministry for the months of August, September and October.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision, which found that the appellant is not eligible for a crisis supplement to purchase clothing, was reasonably supported by the evidence or was a reasonable application of the applicable regulation in the circumstances of the appellant. The ministry found that the evidence does not establish that the appellant met the criteria for allowing a crisis supplement as set out in Section 57 (1) of the (EAPWDR) as follows:

### **(A) 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

#### ***Unexpected Expense***

The ministry's position is the action of the land lord of removing the appellant's belongings was not unexpected as the appellant abandoned the rental property and did not pay rent for several months. The ministry believes the appellant should have informed his land lord of his circumstances or made arrangements for care of his belongings.

The appellant's position is that the expense is unexpected as he did not anticipate his land lord throwing out everything he owned.

Panel decision:

The panel finds that the ministry reasonably concluded that the landlord's removal of the appellant's belongings after several months of absence due to his incarceration could have been anticipated and that the need for clothing is not unexpected.

#### ***No Resources***

The ministry's position is the support allowances issued to the appellant are intended to purchase day to day items and to be budgeted for future purchases such as winter clothing, noting that the initial request was made in August, and that there is insufficient evidence to establish a lack of resources.

The appellant's position is he has no family or friends willing to give him money or any of the articles he requires. He has approached the Salvation Army and received help in the form of furnishings. He has also contacted another charitable organization but they do not supply this type of resource. He

has now approached another community resource, the Ministry of Social Development and Social Innovation for the resources he requires.

Panel decision:

The panel finds that the ministry was reasonable to conclude that there is insufficient information to establish that the appellant's support allowance which he has been receiving since August was insufficient for the appellant to budget and purchase the clothing items he requires. Although the appellant has named the Ministry as a final resource source, the Panel finds there was insufficient evidence that the appellant had exhausted all possible community resources.

***Imminent danger to the physical health***

The ministry's position is there is insufficient evidence to support a probability of immediacy that failure to obtain clothing and that too small of clothing will place the appellant's health in imminent danger. While the ministry notes there may be a possibility of risk to health if winter clothing is not obtained, they believe there is no indication the risk is immediately impending.

The appellant's position is with winter on the way, the lack of suitable clothing and footwear will open him to exposure during the wet and cold season. As a result this could lead to various ailments such as colds, influenza, pneumonia and any number of diseases.

Panel decision:

The panel finds that the ministry was reasonable to determine that there is no imminent danger to the health of the appellant as the request for clothing was made in August. No evidence was provided that would suggest the appellant has any special medical conditions that would make him more susceptible to diseases noted in the advocate's letter. The Panel also finds that there is no evidence of weight gain that would place the appellant in imminent danger as clothing would be too small.

**Conclusion**

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for a crisis supplement for clothing pursuant to Section 57 (1) of the EAPWDA was reasonably supported by the evidence, and therefore confirms the decision.