



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated October 20, 2015, wherein the ministry denied the appellant a crisis supplement for clothing. The basis for the ministry’s decision was that the appellant did not satisfy three statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry held that:

1. the expense was not unexpected,
2. there were alternate resources available to the family unit, and
3. failure to meet the expense would not result in imminent danger to physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) section 57

PART E – Summary of Facts

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

- The appellant's Request for Reconsideration, dated October 8, 2015, with brief a note by the appellant;
- An e-mail from the appellant (which appears to be dated October 12, 2015) stating that "The fridge is not freezing losing my meat help please."

There were a number of other documents included in the appeal record which are not material to the appeal.

In her oral testimony the appellant's witness (his caregiver) stated that:

- The appellant was very sick and hospitalized for three weeks in February, 2015.
- During that time the appellant lost 60 to 80 pounds. Subsequently he worked on losing another 20 pounds and has been successful in keeping that weight off.
- As a result of the weight loss the appellant's clothes no longer fit him and he has nothing to wear. His clothes are so ill-fitting that it is embarrassing to go out in public with him.
- They have checked out the local second hand and thrift stores, as well as the local mental health association, but they have nothing in his size.
- Looking nice is essential for one's self esteem.

In his oral testimony the appellant stated that:

- He normally gets a crisis supplement for clothing every year, with the last one being in October 2014. He was "automatically" granted the crisis supplement last year after he had unsuccessfully tried to find used clothing in several places.
- He receives assistance in the form of various supplements that is "more than most" but he fought hard for the additional funds and they are a separate issue than his need for clothing.
- There is no rental accommodation available in his community for less than \$700 per month.
- His need for the clothing can be considered unexpected because his illness and weight loss were unexpected, he had unexpected food expenses because he lost food when his fridge stopped working, and his car insurance increased \$25 per month.
- His shoes are special made and funded by an ongoing award. The cobbler doesn't want to deal with the ministry so the appellant pays for ongoing maintenance of his shoes.
- The appellant wants pairs of pants that he can be proud to wear.

In response to questions from the ministry the appellant stated that:

- He had advised his ministry worker about his illness and weight loss, and was not asked to provide documentation on this.
- His landlord provided \$100 compensation for the loss of food, but it was less than his actual loss. The \$100 was spent on food.

In his Notice of Appeal the appellant wrote that "I was very ill and have lost a lot of weight and have not been able to replace the clothes."

The ministry relied on its reconsideration decision and provided no additional evidence.

Admissibility of Additional Oral Information

This panel is not a decision-maker of first instance. Section 22(4) of the *Employment and Assistance Act* limits the information that the panel may admit as evidence to “only...the information and records that were before the minister when the decision being appealed was made”, and “oral or written testimony in support of the information and records” that had been before the minister. Information that is “in support” tends to corroborate information and records that were before the ministry at the time of reconsideration. The panel can find no reference in the appeal record to the appellant having advised the ministry of his sickness or weight loss when he applied for the crisis supplement or at reconsideration. The appellant stated that he had told the ministry worker about his illness and weight loss but that she had not requested any documentation of that. For purposes of this appeal the panel accepted the appellant’s evidence that he had previously advised the ministry of his weight loss.

The oral statements of both the appellant and his witness substantially tended to reiterate or corroborate information that had been before the ministry at reconsideration. The panel accepted these statements as being oral testimony in support, in accordance with section 22(4) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's reconsideration decision of October 20, 2015, wherein the ministry denied the appellant a crisis supplement for clothing. The basis for the ministry's decision was that the appellant did not satisfy three statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry held that:

1. the expense was not unexpected,
2. there were alternate resources available to the family unit, and
3. failure to meet the expense would not result in imminent danger to physical health.

The relevant legislation is as follows:

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.

* * *

Unexpected

The appellant's position is that he experienced an unexpected weight loss as well as a number of unexpected expenses. He argued that his fridge unexpectedly failed and his car insurance had increased.

The ministry's position is that clothing is not considered an unexpected expense or an item that is unexpectedly needed.

Panel Decision

Section 57(1)(a) specifies that the crisis supplement must be for an "unexpected expense" or to obtain an item "unexpectedly needed". In the panel's view clothing is not generally an unexpected expense. However, in the appellant's circumstances of unexpected illness and weight loss the need can be considered unexpected.

Based on the foregoing analysis the panel finds that the ministry's decision on this criterion was unreasonable.

No Resources

The appellant's position is that he has no resources available to him to buy new clothing. He argued that his rent and car expenses are high, and that no suitable clothing is available at thrift stores or other social agencies.

The ministry's position is that the appellant's support allowance is intended to be used for daily living expenses such as clothing.

Panel Decision

In the panel's view, the support allowance is expected to be used for expenses such as clothing. Previous provision by the ministry of crisis supplements for clothing does not compel the ministry to provide the supplement each year, and doesn't excuse the appellant from ordering his affairs so as to provide for his clothing needs each year. The case-specific circumstances of each case have to be considered. The panel notes that despite his weight loss due to illness, the appellant (to his credit) made the decision to lose a substantial amount of weight. In doing so, the appellant could be expected to plan for the need to acquire clothing that would accommodate his weight loss. The panel notes it has also been several months since his illness and weight loss, giving him sufficient time to budget for new clothing.

Based on the foregoing, the panel finds that the ministry reasonably concluded that the appellant has not satisfied the legislative criterion that he has no resources available to acquire clothing.

Imminent Danger to Physical Health

The appellant's position is that the ministry's failure to provide the crisis supplement will result in imminent danger to his health. He argued that looking good is essential to one's mental image and self-esteem.

The ministry's position is that the appellant had stated he needed new clothes and shoes. It argued there is no evidence to confirm that failure to meet the requested expense would result in imminent danger to the appellant's physical health.

Panel Decision

In the panel's view the word "imminent" connotes a degree of immediacy that has not been demonstrated in the appellant's circumstances. The reason cited by the appellant for requiring new clothes is for purposes of his appearance. He did not ask for winter clothing or boots which could indicate a need related to physical health. Instead, the appellant stated that he wanted to acquire pants that he could be proud of. There is insufficient evidence to prove on the balance of probabilities that failure to obtain the requested crisis supplement will put the appellant's physical health in imminent danger. Accordingly, the panel finds that the ministry was reasonable in determining that the appellant has not satisfied the legislative criterion related to "imminent danger to physical health".

Conclusion

Since all the criteria in EAPWDR section 57 have not been satisfied, the panel finds that the ministry's decision to deny the appellant a crisis supplement for clothing was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.