

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated December 3, 2015 which held that the appellant was not eligible for a crisis supplement for clothing, a winter jacket, because the criteria set out under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met. Specifically,

- The minister was not satisfied that the crisis supplement was required to obtain an unexpectedly needed winter jacket and that there were no resources available to obtain a winter jacket as required under paragraph (a); and
- The minister was not satisfied that failure to obtain an additional winter jacket would result in imminent danger to the appellant's health as required under paragraph (b).

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57(1)

## PART E – Summary of Facts

The ministry's information at reconsideration is that on November 2, 2015, the appellant called and requested a crisis supplement for a winter jacket as his was old and worn out. The appellant's request was denied. The appellant receives a total of \$1,111.42 in monthly assistance from the ministry, comprised of disability assistance and nutritional supplements and that after total listed shelter costs of \$604.00, the balance is \$493.00. A ministry review of community resources where the appellant lives shows three low cost resources for clothing and an online review shows there is a low cost retail store.

In his Request for Reconsideration dated November 30, 2015, the appellant wrote that it was unexpected to put on a jacket for the first time this winter and have the shoulder rip apart. He pays \$200 out of his support allowance for rent, so the assistance from the ministry only covers food and rent, leaving nothing for clothing and toiletries. He tried all free resources.

In his December 7, 2015 Notice of Appeal submission and his January 12, 2016 written appeal submission, the appellant provides the following information. The jacket ripped while putting it on over his Jewitt back brace (purchased by the ministry). The jacket was old but was expected to last at least one more winter. Due to lack of funds, all resources were viewed but he was unable to purchase a jacket. His health is deteriorating rapidly due to a progressive disease. He receives \$906 monthly and \$205 monthly for nutritional supplements - Boost and vitamins due to massive weight loss and major muscle deterioration. His rent is \$574, plus \$35 for hydro and \$25 for phone costs, leaving him with \$274 for food, toiletries and other basic living items according to the January 12, 2016 submission (he reports a balance of \$263 in his Notice of Appeal). The average rent for a bachelor apartment in his community is \$510.

Also included in the written appeal submission was a summary of a personal bank account for October 14 – November 13, 2015, showing an opening balance of -\$55.51, total deposits of \$1,111.42, total withdrawals of \$1,113.95, and a closing balance of -\$58.04.

The panel admitted the additional written testimony and bank account summary as information in support of the records before the ministry at reconsideration pursuant to section 22(4) of the Employment and Assistance Act. The new information provided further detail respecting the appellant's health and finances which was consistent with the information previously provided by the appellant.

The ministry relied on its reconsideration decision as its appeal submission.

## PART F – Reasons for Panel Decision

### Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible for a crisis supplement for a winter jacket because the criteria set out in section 57(1) of the EAPWDR was reasonably supported by the evidence or a reasonable application of the legislation. That is, was the ministry reasonable when it determined that it was not satisfied that:

- the crisis supplement was required to obtain an unexpectedly needed winter jacket and that there were no resources available to obtain a winter jacket as required under paragraph (a); and
- failure to obtain an additional winter jacket would result in imminent danger to the appellant's health as required under paragraph (b).

### Relevant Legislation – section 57(1) of the 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*.

### Unexpected need – section 57(1)(a)

The appellant argues that although his winter jacket was old, it was expected to last another winter and unexpectedly ripped when being put on over his back brace. The appellant also argues that having to use \$200 of his support allowance to pay his rent is a constant unexpected expense.

The ministry's position is that the appellant does not require a crisis supplement to obtain an unexpectedly needed winter jacket. In reaching this conclusion, the ministry notes that the appellant did not indicate that the shoulder of the jacket was ripped at the time of his initial request and finds that given the initial information that the jacket was old and worn, and as all clothing wears out over time, the jacket ripped due to being old and worn.

The panel finds that the ministry reasonably concluded that the evidence establishes that the appellant's jacket was old and worn and that given its condition, it is not unexpected that it ripped when being put on. The appellant's argument that he incurs an unexpected expense by having to use part of his support allowance for rent has no bearing on whether the need for a new winter jacket is unexpected. The panel finds that the ministry reasonably concluded that the appellant does not require a crisis supplement to obtain an unexpectedly needed winter jacket.

Available Resources – section 57(1)(a)

The appellant argues that he has checked all free resources and is left with either \$263 or \$274 after shelter costs for food and other basic items, leaving him without funds to purchase a winter jacket. Further, the ministry discriminately assumes that he has the option to rent accommodation with phone and electricity for \$375. He argues that the ministry has relied on lies and speculation and that the ministry split his request for a winter jacket and a comforter on November 2, 2015, to show less of a crisis.

The ministry argues that after paying his rental costs of \$604, the appellant is left with \$493 and that the appellant has not provided information demonstrating that this is only enough to cover food, or that he has no other financial resources, such as savings. Additionally, the ministry argues that there are a number of low cost resources for clothing within the appellant's community.

The panel notes that the onus is on an applicant to establish eligibility for the requested supplement. The appellant argues that the ministry has relied on speculation and split his requests to show less of a crisis. However, each item for which crisis supplement funding is requested must meet the legislated requirements. In this case, the appellant needs to provide information to establish that there are no available resources to meet the need for a new winter jacket. The appellant's assertion that he has checked all free resources is somewhat vague as he does not identify those resources or why he was unable to obtain a winter jacket at any of them, including the four community resources identified by the ministry. Respecting the appellant's argument that he does not have the financial means to purchase a new winter jacket, the appellant indicates that he has no more than \$274 remaining after shelter costs, whereas the ministry calculates a remaining balance of \$493. Presumably the ministry has relied on shelter costs identified by the appellant on his shelter information form. However, even if the appellant's somewhat higher assessment of his shelter costs are considered, the appellant is left with approximately \$477 which is significantly more than the amounts of \$263 and \$274 identified by the appellant. The banking summary provided by the appellant does not identify any of the appellant's monthly expenditures and whether the funds were exclusively used to meet basic living needs or included non-essential purchases. Therefore, the panel finds that the ministry reasonably determined that there is insufficient information to establish that alternate financial or community resources are not available to meet the need.

Imminent Danger to Physical Health – section 57(1)(b)

The appellant argues that given his medical conditions, of which the ministry is aware, not having warm outer clothing in the winter is a serious life threatening need. He states that the ministry has not

looked at his file in determining life threatening need and that the only way a non-biased appeal can be decided is for the ministry to provide medical information pertaining to his PWD status and receipt of nutritional supplements and that he is not stupid enough to pay his doctor \$100 for a letter to explain the reasons he requires the requested items.

The ministry argues that it is not satisfied that failure to obtain an additional winter jacket would result in imminent danger to the appellant's health as the appellant has not provided information showing the jacket can no longer be used as is, that it cannot be sewn or repaired, or that he has no other combination of sweaters and jackets that would be appropriate for the weather in his area.

While the appellant argues that the ministry should provide medical information to establish the reasons he needs a new jacket, the onus is on the appellant to provide information to establish that his request meets the legislated requirements. The appellant could have provided information he previously received from his physician. Also, as the ministry notes, the appellant has not provided information to show that the jacket cannot still be used as is, repaired, or used in combination with other layers of clothing. In the absence of such information, the panel finds that the ministry reasonably determined that an imminent danger to the appellant's physical health has not been established.

### Conclusion

In conclusion, the panel finds that the ministry decision that the mandatory criteria of section 57 of the EAPWDR have not been met and that the appellant is therefore not eligible for a crisis supplement for a winter jacket is reasonably supported by the evidence. The reconsideration decision is confirmed.