

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) dated January 21, 2016 that denied a clothing allowance. The ministry noted there are no provisions within the legislation specifically for the purchase of clothing under the Persons with Disabilities (EAPWDR) Regulations and the appellant did not meet the requirements for a crisis supplement as required in section 57 of the regulation, because the item requested was not an unexpected expense or an item unexpectedly needed and that failure to provide the item would not result in imminent danger to her 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 reconsideration included the following:

1. The appellant is in receipt of disability assistance as a sole recipient with monthly assistance of \$1,111.42 comprised of \$531.42 support, \$375.00 shelter plus \$205.00 nutritional supplements.
2. The appellant receives CPP benefits of \$921.22 which are deducted from the monthly assistance.
3. The appellant is paying shelter costs of \$1,058.44 monthly comprised of \$697.36 mortgage, \$172.08 property taxes and \$189.00 utilities.
4. On December 15, 2015 – the appellant requested funds to purchase a piece of clothing that requires special sizing requirements. This piece of clothing is estimated to cost \$122.08.
5. On June 30, 2014 – a crisis supplement of \$100.00 was issued to the appellant for the purchase of the same piece of clothing as she requested on December 15, 2015.
6. On January 21, 2016 – the ministry denied the request to purchase the piece of clothing stating that assistance and supplements may only be provided as set out within the Employment and Assistance for Persons with Disabilities Act and Regulation and there are no provisions within the legislation specifically for the purchase of clothing.
7. The ministry further states that the only legislative option available is to assess requests for the purchase of clothing as a crisis supplement.
8. The ministry stated that the appellant's request for a crisis supplement has been denied because the need to replace clothing due to wearing out is not an unexpected expense; there is insufficient evidence to support a probability of immediacy that failure to obtain the new clothing will place her physical health in imminent/immediate danger; and there is insufficient evidence there is a lack of resources available to budget on a gradual basis for the replacement of clothing as it wears out.

Notice of Appeal dated January 28, 2016, the Appellant stated the following:

1. She received a \$100.00 clothing allowance 1 ½ years ago for the same piece of clothing, which is a precedent.
2. She stated that it is easier to budget for a \$20 item but a \$122.08 item is another thing.

The Appellant's submission to the written hearing included the following relevant additional information:

1. She is a "PWD" person with disabilities, health issues. Her specialist warns against getting mentally, emotionally and physically distressed or exhausted. She feels that her request for a

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\$100 clothing allowance is all of the above.

2. She refers to “the need for the item or expense is unexpected,” and states that what is unexpected is that the ministry has not provided a cost of living adjustment to be able to afford to purchase the necessities of life in 10 years.
3. She refers to “failure to obtain the item will result in imminent danger to health,” and states that by not having the specific piece of clothing will cause pressure and strain and result in additional medical costs
4. She refers to the shelter costs of \$1,058.44 (\$697.36 mortgage, \$172.08 property taxes and \$189.00 utilities) and points out that the property taxes are deferred annually, so why would the ministry throw her deferred property taxes into their reconsideration decision?
5. She states that the ministry should assist her in a refinancing of her mortgage which would bring it below the shelter allowance, and then she wouldn’t have to come to them for a clothing allowance to purchase the special piece of clothing.
6. She states that in 1995 she purchased her home and it was cheaper than renting, and continues to be cheaper than rent. She states that the \$649.22 mortgage exceeds the ministry’s prehistoric shelter allowance of \$375.00 per month and the ministry could do something brilliant and supportive to stop the financial strife and ruin and assist her in refinancing her mortgage.
7. She states that the monthly assistance of \$1,111.42 is unchanged since 2006 and the cost of living has gone up.
8. She states that she is outraged that the repayment of \$20.00 per month is included in the reconsideration decision because “it was caused by a comedy of internal errors.”
9. She states that “on June 30, 2014 a crisis supplement of \$100.00 was issued for the purchase of clothing,” and this is a precedent, because it is exactly what she is requesting now.

The ministry’s submission to the written hearing:

“The ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.”

The panel finds that the Appellant’s submission did not introduce any additional evidence.

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 as set out in section 57 of the EAR 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 her physical health.

Relevant Legislation:

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, 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.

(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.
(BC Reg. 13/2003)

Position of the Appellant:

The Appellant argues she has no funds available to purchase a piece of clothing that requires special sizing requirements at an estimated cost of \$122.08. She states that the total amount of assistance she receives is too low and does not cover the basic costs of food and shelter. She further argues that the ministry provided her with a crisis supplement of \$100.00 on June 30, 2014 to cover the cost of the very same piece of clothing, and this is a precedent.

Position of the ministry:

The ministry argues that there are no provisions within the legislation specifically for the purchase of clothing and the only legislative option available is to assess the request for clothing as a crisis supplement. The position of the ministry is that the appellant has not met all three of the criteria, specifically:

1. The need for the item or expense is unexpected – the Appellant has stated that the wearing out of clothing requiring replacement is an unexpected expense, and
2. Failure to obtain the item will result in imminent danger to health – the Appellant has not provided sufficient evidence to support the probability of immediacy that failure to obtain new clothing will place her physical health in imminent/immediate danger, and
3. There are no alternate resources available to obtain the item or meet the expense – the support allowances are intended to be used for daily living expenses such as clothing; and the shelter allowances are intended to be used for shelter costs and the Appellant's shelter costs of \$1,058.44 significantly exceed the shelter allowance of \$375.00; and the fact that the Appellant has chosen to divert a portion of her support allowance to pay shelter costs does not change the fact that the Appellant is provided with assistance for support purposes; and there is insufficient evidence there is a lack of resources available to budget to replace clothing as a result of choices made by the Appellant.

Panel Decision:

Relevant to this case is section 57 of the EAPWDR that states there are specific conditions that must be met in order to qualify for a crisis supplement. The panel must consider the facts of this case as it applies to the legislation and has not been provided with the circumstances and facts related to the ministry's issuance of a \$100.00 clothing allowance on June 30, 2014 for the same piece of clothing. The first criteria 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 is requesting the allowance to replace worn clothing and it can be anticipated that clothing will require replacement when it wears out. The second criteria is that failure to obtain the item will result in imminent danger to the Appellant's physical health. The panel finds that the ministry reasonably concluded that there is no information indicating that the Appellant's physical health is in imminent danger due to the absence of new clothing. The third criteria is that the Appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit. The Appellant's shelter costs significantly exceed the shelter allowance and the resources provided for clothing support are used to cover shelter costs. The panel finds that the ministry was reasonable

in its conclusion that resources are available to the Appellant and there is insufficient evidence there is a lack of resources to budget for clothing. All three criteria must be satisfied in order to be eligible for a crisis supplement.

The appellant argues that the \$100 clothing allowance issued to her by the ministry in 2014 has created a precedent in her case. The panel does not accept the Appellant's argument because a reconsideration decision is a new decision in each case and does not set precedent.

The Panel finds that the ministry's reconsideration decision denying the Appellant a crisis supplement is a reasonable application of the legislation and is supported by the evidence in the Appellant's circumstances. The Panel confirms the ministry's reconsideration decision.