

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of March 3, 2016 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 all three statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry was satisfied that the appellant’s need for the clothing was unexpected but held that:

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

PART D – Relevant Legislation

EAPWDR – section 57(1)

PART E – Summary of Facts

The ministry requested that another ministry employee be allowed to observe the hearing for training purposes. The appellant had no objection and the observer was permitted to attend the hearing.

The evidence before the ministry at the time of reconsideration:

- Information pamphlet on a community resource center that serves as a resource for low income individuals and families in the neighborhood;
- Request for Reconsideration dated February 29, 2016 in which the appellant stated:
 - I have lost a lot of weight rapidly and need clothes that fit for I do not have any extra \$ for suspenders and or a belt,
 - None of my bras or panties fit right any more...,
 - I've gone from pant size ladies 32 down to 20/18,
 - I have been looking for work & not nice first impressions,
 - I need proper fitting clothing, underwear [sic] & shoes,
 - I look ridiculous when "I'm having" to pull up my pants or shirt & underwear [sic] wherever I go.

At the time of the Reconsideration the appellant was a sole recipient of disability assistance and eligible to receive \$941.42 monthly. On February 22, 2016 the appellant requested a clothing supplement. The appellant told the ministry that she had had dental surgery last fall and that as a result of this surgery and another illness she had lost a significant amount of weight. The ministry determined that it was reasonable for the appellant to assume she would lose some weight after the surgery it was not reasonable for her to predict an illness that would cause her to lose so much weight that her clothes would no longer fit and the ministry accepted that the amount of weight lost was unexpected and that she would have a need for new clothing and undergarments. The ministry advised the appellant that the purpose of her monthly support allowance of \$536.42 is to purchase the necessities of life and other personal items, including clothing. The ministry stated the appellant did not provide any information to indicate the community resources that she had attended to see if she could meet her needs. The ministry also stated that the appellant had not provided any information that would indicate that she would be in imminent danger from the lack of clothing.

At the hearing the appellant stated because she has a partner and is in a committed relationship her appetite has changed, she exercises more and has lost a significant amount of weight in the last 3 years and more than 90 lbs. in the last year. The appellant stated that she needs new undergarments and this type of clothing is expensive. She stated that her clothes do not fit her anymore and when she walks they can fall down so she finds that she is constantly pulling up her pants to prevent her from tripping, falling and hurting herself. The appellant testified that she knows there are community stores that have clothes that will fit her but she does not have any extra money to buy clothes because paying her hydro bill and buying food is more important. The appellant stated that she feels undergarments need to be new and her last brassiere, that doesn't fit her any more, cost \$55.00. The appellant testified that she is embarrassed to go out for job interviews because her clothes do not fit. She stated that her parents and family can no longer provide her assistance because they are either on fixed pensions or have family of their own to support. The appellant stated that her career counsellor had set up an appointment for her to see a community agency that would provide her with some clothing – a pair of pants, skirt, blouse and pair of shoes – but she is not aware that they will provide undergarments. The appellant emphasized that she needs the clothing supplement to

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purchase new undergarments. The appellant testified that in the past it did not seem to be a problem to get the \$100 for clothing but now it seems that any extra money from the ministry is hard to get.

In response to questions from the ministry the appellant stated:

- that the crisis supplement would allow her to go to community stores to get clothing but at the present time she cannot afford to purchase even a belt or a pair of suspenders.
- that she was not aware of other resources to get clothing;
- that she would welcome the ministry's assistance with a resource list.

In response to questions from the panel the appellant stated:

- that she walks with a cane and if she was out walking and fell that fact that her clothing doesn't fit she could fall and that would put her health in imminent danger.
- that she was aware of a company in Vancouver that provided clothing for interviews, etc. and that she had an appointment to go there with her career counsellor but missed the appointment because of a conflict with a medical appointment.

The panel admitted the appellant's testimony, which either substantiated or further explained information already before the ministry, as being in support of the information and records before the ministry at reconsideration in accordance with section 22(4) of the Employment and Assistance Act.

The ministry relied on the facts as stated in the Reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's determination that the appellant was not eligible for a crisis supplement for clothing under section 57(1) EAPWDR was either a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined the appellant did not satisfy two of the three statutory criteria for a crisis supplement; the ministry was satisfied that the appellant's need for the clothing was unexpected but held that:

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

The legislation considered:

EAPWDR

Crisis supplement

Section 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*.
- ...
- (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

Alternate Resources

Ministry's Position

The ministry argued that the appellant receives \$536.42 monthly support allowance which the ministry expects the appellant will budget to purchase the necessities of life, including clothing. The ministry stated there is an organization that will provide clothing suitable for job searching, interviews and will assist with a wardrobe once a job has been secured and there are community agencies where a person can obtain low cost clothing. The ministry argued the appellant did not provide any information that she had contacted or attended any of these agencies.

Appellant's Position

The appellant argued that she does not have any extra money for clothing, i.e. suspenders, belt or

underwear and needs proper fitting clothes. The appellant argued that her family has assisted her in the past but they cannot help anymore because they are on fixed pensions or have family of their own to support.

Panel Decision

The evidence before the panel is that the appellant has received a clothing supplement in the past and again finds herself in need of clothing, especially undergarments that no longer fit because of her significant weight loss. The appellant testified she is aware of community stores but does not have any extra money to go there. She also testified that she was aware of a community resource that provides clothing for job searches and interviews but missed that appointment due to another conflict. The panel notes the appellant has not re-booked that appointment.

The panel finds the evidence supports the ministry's position that the appellant may have resources, i.e. community stores and community agencies, available to her to meet her clothing needs and the ministry's expectation that the appellant's support allowance be utilized to meet her clothing needs. The panel finds the ministry's decision that the appellant does have resources available to her to meet her unexpected need was reasonable.

Imminent Danger to Physical Health

Ministry's Position

The ministry position is that the appellant had not provided any information that her health would be in imminent danger because of a lack of clothing of her size.

Appellant's Position

The appellant argued that her clothing does not fit and she had to pull her pants up to prevent them from falling down. The appellant argued that she is at risk of tripping and falling and subsequently hurting herself and therefore her health is in imminent danger.

Panel Decision

In the panel's view the term "imminent" means immediate in nature and there is no information, medical or otherwise, to support that the appellant's physical health would be in imminent danger because of a lack of clothing fitting her new size. The panel understands that having loose clothing can present a "risk" but in the panels view this is not imminent. The panel finds there is insufficient evidence to demonstrate 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 two of 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.