

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of decision of March 21, 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 59(1) of the Employment and Assistance Regulation (“EAR”) nor did the appellant qualify for a clothing supplement under section 53 EAR because he does not reside in a special care facility.

The ministry was satisfied that the appellant met two of the three criteria; that his need for exercise clothing and shoes was unexpected and that he does not have resources available to meet his expense as set out in section 59(1)(a) EAR.

However, the ministry was not satisfied that failure to meet the expense or obtain the items would result in imminent danger to physical health of the appellant as set out in section 59(1)(b)(i) EAR.

PART D – Relevant Legislation

EAR – section 53, 59

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Note dated March 16, 2016 from the appellant's physician, which states, "Updated footwear and jogging (walking) clothes to optimize exercise and minimize foot pain".
- Request for Reconsideration dated March 17, 2016 with a one-page submission attached.

The appellant is a sole recipient of income assistance. On March 3, 2016 the appellant contacted the ministry and requested a crisis supplement for his annual clothing allowance. The appellant advised the ministry that he had lost body weight a year ago and that recently due to an illness he has lost a further 20 pounds in two months, that he only had one set of clothing, that his clothes no longer fit him and he has no funds to purchase new clothing. The appellant had also informed the ministry that his doctor told him that he needed new footwear for walking to optimize his exercise and manage his foot pain. The appellant told the ministry he had no funds for either clothing or footwear.

In the Notice of Appeal under Reasons for Appeal, the appellant wrote, "My COPD is so advanced that stopping my exercise program, which I will have to do, if I do not receive a new pair of exercise shoes, I will end up in hospital on oxygen while they adjust my blood gasses. Exercise keeps it in check. Hence the imminent threat to my health. Clothing that is too large causes a tripping hazard and I have osteoporosis, if I fall I break my bones".

The panel finds the appellant's statements in the Notice of Appeal do not contain new evidence and is considered argument.

In the appellant's written submission he stated some inaccuracies were made in the decision of his request for consideration;

- his weight does not fluctuate throughout the year;
- he recently lost between 15 to 20 pounds due to a severe case of the flu but is slowly gaining his weight back;
- I have a severe case of osteoporosis so if he falls down he'll break a bone.
- he has been budgeting his money for at least 50 of his 64 years, however, it is quite a challenge on \$735.00 per mo [month].
- "I spent the last \$25.00 of April's money (income assistance) along with \$50.00 I borrowed (which I have to pay back out of May's money) to buy my own shoes."
- "If I had to stop exercising I would end up in the hospital getting my blood gases adjusted due to my C.O.P.D. hence my threat of imminent danger is not alleviated due to a threat of tripping over my old clothes."

The panel accepts the appellant's written submission as evidence in support of the information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the EAA.

The ministry advised the ministry's submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

The ministry's written submission is the Reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of March 21, 2016 wherein the ministry denied the appellant a crisis supplement for clothing as the ministry is not satisfied that failure to meet the expense would not result in imminent danger to the physical health of the appellant as set out in section 59(1)(b)(i) EAR.

Further, the ministry determined the appellant did not qualify for a clothing supplement under section 53 EAR because he does not reside in a special care facility.

The legislation considered: EAR

Clothing supplement for people in special care facilities

Section 53

The minister may provide a supplement to or for a family unit that is eligible for income assistance for the purchase of necessary clothing for a recipient in the family unit who resides in a special care facility, except an alcohol and drug treatment center, if

- (a) clothing is not provided in the facility,
- (b) there are no funds available from the recipient's comforts allowance to purchase the clothing, and
- (c) there are no resources available to the recipient's family unit to pay for the clothing.

Crisis supplement

Section 59

(1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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, 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 income 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.

Crisis Supplement – Imminent Danger - section 59(1)(b)(i) EAR.

In the appellant's submission he stated that he had budgeted his money and purchased a new pair of shoes so the panel will only be considering the appellant's need for clothing.

Ministry's Position

The ministry's position is that the available information does not demonstrate how wearing larger sized clothing will result in imminent danger to the appellant's physical health. The ministry argued the appellant reported losing 20 pounds recently and provided a doctor's note confirming the need for shoes for health reasons; however, he did not provide doctor's confirmation of his recent weight loss nor did he provide any evidence regarding how wearing larger sized clothes will result in imminent danger to his physical health.

Appellant's Position

The appellant argued that his clothes are too big and may cause a tripping hazard and, because he has a severe case of osteoporosis, if he falls down he'll break a bone. He argued that he also has COPD and needs the clothes to continue his exercise program or he could end up in hospital.

Panel Decision

The ministry's position is that there is insufficient evidence to support that the appellant's larger sized clothing will result in imminent danger to his physical health. The appellant argued that he has COPD and needs to continue his exercise program. The appellant also argued he has severe osteoporosis and if he fall could break a bone. There is no medical evidence before the panel regarding the appellant's medical condition(s). The note from the appellant's doctor does not support the appellant's position as the note only states that the clothing will optimize exercise and does not speak about imminent danger to the appellant's physical health. 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".

Clothing Supplement – section 53 EAR

Ministry's Position

The ministry position is that the appellant does not reside in a special care facility; that his file indicates that he resides in a shared rent accommodation and therefore does not qualify for the supplement.

Appellant's Position

The appellant did not argue the ministry's position.

Panel Decision

The panel finds the ministry's decision that the appellant does not qualify for a clothing supplement under section 53 EAR was a reasonable application of the legislation supported by the evidence.

Conclusion

The panel finds that the ministry's decision to deny the appellant a crisis supplement for clothing was supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The panel confirms the ministry's decision.