

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* and dated June 24, 2016, that denied the appellant's request for a crisis supplement for clothing for the month of March, 2016, on the grounds that while the Appellant satisfied the criterion of having no alternate resources available with which to meet his need, he did not show that the crisis supplement was for an unexpected need or an unexpected expense, did not show that failure to meet the expense will result in imminent danger to the Appellant's physical health or removal of a child under the *Child, Family and Community Service Act*, and that the Appellant had already received the maximum \$100 allowable for a clothing crisis supplement within the 12 calendar months preceding the date of the Appellant's application for the crisis supplement.

## PART D – Relevant Legislation

*Employment and Assistance for Persons With Disabilities Regulation* (EAPDWR), Section 57(1), (2), (3), (4)

## PART E – Summary of Facts

### **Nature of the Appellant's Application**

The Appellant applied for a crisis supplement for clothing, which was denied. The Appellant requested reconsideration of the denial.

### **Evidence at the Time of Reconsideration**

The evidence before the Ministry at the time of Reconsideration consisted of:

**A. A Statement** that the Appellant receives disability assistance as a single person

**B. Facts Set Out in the “Decision to be Reconsidered” Part of the Request for Reconsideration** dated June 2, 2016:

- The Appellant's request for a crisis supplement was denied as it did not meet all eligibility criteria
- On March 30, 2016 the Appellant requested a crisis supplement for clothing on the grounds of loss of weight
- The Appellant said he had no clothing that fit
- The Appellant said he had accessed “community resources”, but did not say specifically which ones or for what.
- The Appellant had received a crisis supplement of \$100 in November 2015
- That the Appellant was notified of the crisis supplement denial on June 2, 2016.

**C. Appellant's Additional Statements Set Out in the “Reason For Request for Reconsideration” Part of the Request for Reconsideration** dated June 2, 2016:

- That the Appellant's shoes were an orthotics product not to be “use” as a crisis grant
- The \$100.00 crisis grant request is different from orthotics
- A \$100 clothing grant is needed
- The Appellant has shoes but no clothing

## PART F – Reasons for Panel Decision

### ISSUE

The issue is whether the Ministry of Social Development and Social Innovation's (the Ministry) reconsideration decision made under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)* and dated June 24, 2016, that denied the appellant's request for a crisis supplement for clothing for the month of March, 2016, on the grounds that while the Appellant satisfied the criterion of having no alternate resources available with which to meet his need, he did not show that the crisis supplement was for an unexpected need or an unexpected expense, and did not show that failure to meet the expense will result in imminent danger to the Appellant's physical health or removal of a child under the *Child, Family and Community Service Act*, and that the Appellant had already received the maximum \$100 allowable for a clothing crisis supplement within 12 calendar months preceding his application for the crisis supplement, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

### RELEVANT LEGISLATION

#### 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) .....

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

- (a) .....
- (b) .....
- (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.

### JURISDICTION

The panel's jurisdiction to hear the Appeal is pursuant to section 19(1)(a) of the *Employment and Assistance Act*.

The Appellant did not attend this hearing. Confirmation was received from Canada Post that the Appellant received the Notice of Hearing on August 11, 2016.

No representative of the Ministry attended this hearing. There was facsimile confirmation that the Ministry received the Notice of Hearing on August 9, 2016.

The hearing was scheduled for 9:00 am, and the Panel waited 10 minutes until 9:40 am; when neither party attended, pursuant to the authority of section 86(b) *Employment and Assistance Regulation* the Panel proceeded to deliberate and decide the issue.

### **General Scheme of the Legislation**

The general scheme of Section 57 of the *EAPWDR* is that an individual may receive a crisis supplement if three criteria are met. The first is that the Minister may provide a supplement if it is required to meet an unexpected expense or to obtain an item unexpectedly needed (section 57(1)(a) *EAPWDR*). The second is that the person is unable to meet the expense or obtain the item because there are no resources available to the family (section 57(1)(a) *EAPWDR*). The third is that the Minister must consider that failure to meet the expense or obtain the item will result in either imminent danger to the person's physical health or removal of a child under the *Child, Family and Community Service Act* (section 57(1)(b) *EAPWDR*).

Further, under section 57(4)(c)(i) *EAPWDR* a person may only receive a maximum of \$100 clothing crisis grant in any 12 month period.

### **Analysis**

#### **Section 57(1)(a) *EAPWDR* – Unexpected Expense**

The first part of the sub-section requires the Appellant to show that the clothing expense for which he seeks a supplement is unexpected.

#### **Appellant's Position**

At reconsideration, the Appellant's position was that he had lost weight, but he did not provide any information as to whether or not the weight loss was unexpected or any other evidence about his weight loss. He stated in his Notice of Appeal that "Orthotix" shoes should be separate from the clothing fund, and that he was in need of clothing.

#### **Ministry's Position**

Further, the Appellant's need for clothing was because he had lost weight, and while the Ministry accepted that the Appellant had lost weight there was no information before the reconsideration officer about the circumstances surrounding the weight loss, and that there was insufficient information to find that the Appellant's weight loss was unexpected.

#### **Panel Finding**

The panel finds that there was no information before the reconsideration officer to indicate whether or not the Appellant's weight loss and thus his need for a clothing supplement was or was not an unexpected expense or an expense necessary to obtain an item unexpectedly needed. There was no information about orthotics shoes either from the Appellant or the Ministry except for the unexplained statements set out in Part E and in the Notice of Appeal.

The panel finds therefore that the Ministry's determination at reconsideration that the Appellant had no unexpected expense or to obtain an item unexpectedly needed was a reasonable application of the first criterion of section 57(1)(a) of the *EAPWDR* in the circumstances of the Appellant and was reasonably supported by the evidence.

## **Section 57(1)(b) *EAPWDR* – Failing to Meet an Unexpected Expense Will Result in Imminent Danger to Physical Health or Removal of a Child**

### **Appellant's Position**

The Appellant provided no information at reconsideration concerning how, if at all, his physical health would be affected, let alone if it would result in imminent danger to his physical health, if the clothing supplement was not granted.

The Appellant provided no information as to how a failure to provide him with a clothing supplement would result in removal of a child under the *Child, Family and Community Service Act*.

### **Ministry's Position**

The Ministry's position at reconsideration was that although the Appellant had lost a significant amount of weight, he had not provided information as to how failure to obtain clothing would result in imminent danger to his physical health.

Although the reconsideration decision noted that there is a second criterion contained in section 57(1)(b) *EAPWDR* which provides that the supplement may be provided if failure to obtain the item or meet the expense will result in removal of a child under the *Child, Family and Community Service Act*, the reconsideration decision did not address the issue further, and specifically did not deal with evidence of or lack of evidence supporting this criterion.

### **Panel Finding**

The panel notes that, although mentioned in the reconsideration decision, there was never an issue with respect to a removal of a child to the second sub-section of Section 57(1)(b) dealing with the removal of a child under the *Child, Family and Community Service Act* does not arise.

The panel finds that the Ministry was reasonable when it determined at reconsideration that the Appellant had not shown that his health would be in imminent danger if the clothing supplement was not granted, and was therefore a reasonable application of Section 57(1)(b) *EAPWDR* in the circumstances of the Appellant.

## **Section 57(4)(c)(i) - Maximum \$100 Clothing Crisis Grant in a 12 Month Period**

### **Appellant's Position**

The Appellant did not address this criterion.

### **Ministry's Position**

In November 2015, the Appellant had received a clothing grant of \$100.00, the maximum allowable in the 12 calendar month period preceding the date of application for the crisis supplement, and under *EAPWDR* Section 4(c)(i) was not eligible for another clothing grant until December 2016.

### **Panel Finding**

The panel finds that the Ministry was reasonable when it determined at reconsideration that the Appellant had received the maximum allowable clothing grant of \$100 within the preceding 12 months and was therefore not eligible for a crisis supplement for clothing and would not be eligible until

December, 2016.

**Conclusion**

The panel finds that the Ministry's decision in denying the Appellant a crisis supplement for clothing was a reasonable application of the evidence in the circumstances of the Appellant and was reasonably supported by the evidence.

The panel confirms the Ministry decision and the Appellant is not successful in his appeal.