

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 July 29, 2016 which held that the appellant was not eligible for a crisis supplement for clothing, 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 requested was required to replace clothing after a weight loss, was for an unexpected expense and that there were no alternate resources available to obtain the items as required under subsection (a); and
- The minister was not satisfied that failure to obtain the items would result in imminent danger to the appellant's health as required under subsection (b).

PART D – Relevant Legislation

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

PART E – Summary of Facts

With the consent of the parties, the hearing was conducted in writing pursuant to Section 22(3)(b) of the Employment and Assistance Act.

The ministry's information at reconsideration is that on July 12, 2016, the appellant who is in receipt of disability assistance requested a crisis supplement to purchase clothing because she had lost significant weight due to being prescribed the wrong medication by her physician in May 2016. The appellant indicated that she had received approval for a crisis supplement to purchase a wig as her physician had prescribed the wrong medication resulting in hair loss. The ministry did not find a record of a previous request, approval or denial of a crisis supplement to purchase either a wig or clothing. The appellant then stated that she had not had an allergic reaction to the medication nor had the physician prescribed the wrong medication. The appellant further indicated that she has a broken foot, back and arms due to an incident with police who also threw away her belongings. The appellant's request to purchase clothing was denied.

In her Request for Reconsideration dated July 18, 2016, the appellant wrote that she had shaved her head while on medication she was not supposed to be prescribed and subsequently lost a lot of weight. The appellant stated that she now weighs 76 lbs. and has no clothes that fit. The appellant states that she has a broken leg and back due to an incident with the police. The appellant also indicated that she needs 'ensure' and under garments.

In her September 15, 2016 Notice of Appeal submission, the appellant indicates that she had a nervous breakdown which stemmed from prescribed medication that also caused hair loss and significant weight loss.

The panel admitted the additional written testimony 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 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

The issue under appeal is whether the ministry decision that the appellant was not eligible for a crisis supplement for clothing because the criteria set out in section 57(1) of the EAPWDR were not met, 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 unexpectedly needed clothing and that there were no alternate resources available to obtain the items as required under paragraph (a); and
- failure to obtain the items 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 she was prescribed medication in error that caused hair loss and significant weight loss and as a result, she weighs 76 lbs. and has no clothes that fit her.

The ministry's position is that the need to replace clothing after a weight loss is not an unexpected expense. Further, the only medical information provided by the appellant indicated that she is pending back surgery, and does not mention weight loss, the amount of weight loss or the period of time the weight loss covered. Therefore, this eligibility requirement has not been met.

The panel finds that the ministry reasonably concluded that the evidence does not establish that the appellant has unexpectedly lost weight due to wrongly prescribed medication, or the amount of weight loss or the timeframe of any weight loss and therefore, it is not an unexpected expense to obtain clothing as a result of weight loss. The panel finds that the ministry reasonably concluded that the appellant does not require a crisis supplement to obtain clothing as an unexpectedly needed expense.

Available Resources – Section 57(1)(a)

The appellant argues that \$300 has been deducted from her income assistance because of outstanding warrants that have now been cleared.

The ministry argues that the appellant's support allowances are intended to be used for daily living expenses such as clothing and that she did not indicate that she attempted to access local community resources. Therefore, this eligibility requirement has not been met.

The panel notes that the onus is on an applicant to establish eligibility for the requested supplement. The appellant argues that she doesn't have the money to purchase clothing. However, the items 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 clothing. There is no evidence provided by the appellant to identify any of the appellant's monthly expenditures and whether she has made an effort to locate the required items through community resources. 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 doesn't address how not obtaining a clothing supplement poses an imminent danger to her physical health.

The ministry's position is that there is insufficient evidence to support a probability of immediacy that failure to obtain clothing will place the appellant's health in imminent/immediate danger. Therefore, this eligibility requirement has not been met.

The panel finds that while the appellant argues that her medical conditions are compromised by not having this supplement, she has not provided medical information to establish the reasons she needs these clothing items. The onus is on the appellant to provide information to establish that her request meets the legislated requirements. The appellant could have provided information she previously received from her physician. 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 clothing is reasonably supported by the evidence. The reconsideration decision is confirmed. The appellant is not successful in her appeal.