

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 December 14, 2016 which held that the appellant was not eligible for a crisis supplement for winter/rain 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 was required to obtain an unexpectedly needed winter/rain jacket.

The minister was satisfied that the appellant does not have the resources available to purchase new winter/rain clothing as required under paragraph (a); and

The minister was also satisfied that failure to receive adequate clothing when using her scooter outdoors may cause imminent danger to the appellant's health as required under paragraph (b).

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The information before the ministry at the time of reconsideration included the following:

A Request for Reconsideration dated November 29, 2016 which included a submission from the appellant. The appellant's advocate wrote that the appellant had purchased new rain gear at a local merchant and after a few weeks it began tearing and falling apart. The clothing item had snaps not a zipper which caused tearing of the fabric which was unexpected. The appellant tried to return the clothing item for a refund but was refused. The appellant has a serious heart condition which is the reason for the approval of a scooter. Additionally, not having the proper clothing for the local wet and cold climate can cause imminent danger, raising the risk of a heart attack.

In her December 22, 2016 Notice of Appeal submission the appellant noted that she did know that the clothing allowance fell under crisis grants and that this is her second time asking for one since 1997.

The ministry relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision which denied the appellant's request for a crisis supplement for winter/rain clothing was reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of the appellant. Specifically, the minister was not satisfied that the appellant's request for a crisis supplement was required to obtain an unexpectedly needed winter/rain jacket.

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's position is that she had purchased new rain gear at a local merchant and after a few weeks it began tearing and falling apart. The clothing item had snaps not a zipper which caused tearing of the fabric which was unexpected. The appellant tried to return the clothing item for a refund but was refused.

The ministry's position is that the appellant's request for winter/rain clothing is not unexpected and clothing is not an item that is unexpectedly needed. The ministry argues that the appellant provides conflicting stories and with her reconsideration stated that she had purchased rain gear; however, the minister notes that the appellant argued that she did not have the resources available when she first approached the ministry for assistance. The ministry also argues that the appellant did not provide evidence to verify that she purchased clothing, it ripped and the appellant could not return it. Therefore, the minister cannot establish an unexpected expense/need for clothing.

The panel finds that the ministry reasonably concluded that the evidence establishes that the appellant's need to replace worn winter clothing was not unexpected. While the appellant indicates

that she had recently purchased rain gear which lasted a few weeks before tearing and falling apart and that although she tried, she could not be refunded for the clothing item; the panel finds that there is no evidence to confirm that the clothing supplement was required to meet an unexpected expense. The panel therefore finds that the ministry reasonably concluded that the appellant does not require a crisis supplement to obtain an unexpectedly needed winter/rain jacket.

In conclusion, the panel finds that the ministry decision that all the mandatory criteria of Section 57 of the EAPWDR have not been met and that the appellant is not eligible for a crisis supplement for a winter/rain jacket is reasonably supported by the evidence. The reconsideration decision is confirmed and the appellant is not successful in her appeal.