

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated April 11, 2017, in which the ministry denied the appellant's request for a crisis supplement for clothing due to the criteria in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57(1) not being met. The ministry found that the need was not unexpected, the appellant had alternate resources available to meet the need, and that failure to obtain the requested items would not result in imminent danger to her physical health. The ministry also determined the appellant has received the maximum amount of a crisis supplement for clothing that can be provided to a person in the current 12-month period as per the EAPWDR s. 57(4)(c).

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant is a recipient of disability assistance under the EAPWDA.

The information before the ministry at reconsideration consisted of the following:

- Appellant was issued a crisis supplement of \$100 in April 2016 to purchase clothing due to weight gain.
- April 4, 2017 – Appellant requested a crisis supplement to purchase clothing. The appellant stated that she had gained weight and nothing fits. The appellant stated that the weight gain was due to being inactive.
- April 5, 2017 – Appellant submitted Request for Reconsideration forms and advised that she had changed medications within the last 12 months and had gained 30lbs. The appellant provided copies of prescriptions and a letter from her physician confirming a weight gain of 30lbs as a result of her medical conditions and medications. The appellant further stated she had Chronic Obstructive Pulmonary Disease (COPD) and arthritis that made it difficult for her to be mobile.

Notice of Appeal

The appellant's Notice of Appeal was received by the Tribunal on April 19, 2017. For reasons, the appellant states she has been to second hand stores and was unable to find what she needed, she has COPD and the medications cause her to gain weight, that she has bruises due to the tight clothing she is wearing, she doesn't use drugs or drink, she is not asking for a food crisis since she visits food banks, she has three inhalers, and if she had clothing she would be able to go out more and maybe lose some weight

At the hearing the appellant told the panel:

- New medications for COPD that she was taking are causing her to gain weight.
- She started taking prednisone this spring.
- She feels housebound since she has no proper clothing to go outdoors.
- The clothing crisis supplement she is requesting is for basic necessities.
- She has visited second hand stores but was unable to find her size of clothing.
- She has bruises on her body from wearing tight clothing, she only has some winter clothing.
- She is having to do extensive laundry and that is causing her rent to go up.
- She is having to pay out of pocket expenses such as Reactine 20mg which is not covered.
- Weight gain has been excessive in the last 4 months; the weight gain is daily and is over 30lbs of the initial 30lbs from last year.

The ministry told the panel that section 57(1) was not met. The ministry found that the request was not unexpected, the appellant had alternate resources available to meet the need, and that failure to obtain the requested items would not result in imminent danger to her physical health.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the ministry's decision that the appellant does not qualify for a crisis supplement for clothing because her request does not meet the criteria set out in the EAPWDR Section 57(1). The ministry found that the need was not unexpected, the appellant had alternate resources available to meet the need, and that failure to obtain the requested items would not result in imminent danger to her physical health. The ministry also determined the appellant has received the maximum amount of a crisis supplement for clothing that can be provided to a person in the current 12-month period as per the EAPWDR s. 57(4)(c).

Relevant Legislation:

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

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) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
 - (b) any other health care goods or services.
- (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 disability 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.
- (7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:
- (a) fuel for heating;
 - (b) fuel for cooking meals;
 - (c) water;
 - (d) hydro.

Position of parties:

Appellant:

The appellant's position, as explained in her Request for Reconsideration and Notice of Appeal, is that she requires clothing due to the current ones being too tight. The change in her medications has led to the weight gain to be more immediate, due to unexpected circumstances. The appellant has visited thrift stores looking for clothing in her size but was unsuccessful. Furthermore, she needs garments to be able to go outdoors and not be housebound. The Appellant did not submit any other material than that which had been submitted to the ministry at the time of reconsideration.

Ministry:

The position of the ministry, as set out in the reconsideration decision, is that the appellant is that under EAPWDR section 57(1) was not met. The ministry found that the expense was not unexpected, the appellant had alternate resources available to meet the need, and that failure to obtain the requested items would not result in imminent danger to her physical health.

The ministry told the panel that the EAPWDR Section 57(1)(4)(c) sets out the maximum amount of a crisis supplement for clothing that can be provided to a person. The legislation allows for up to \$100 per person in the family unit in the 12-month period preceding the date of application for the crisis supplement. The appellant requested and received a \$100 crisis supplement for clothing in April 2016 and therefore the appellant is not eligible for another crisis supplement for clothing until May 2017.

Panel Decision:

The legislation, specifically Section 57(1) of the EAPWDR, requires recipients of disability assistance to meet all three criteria for the crisis supplement.

- (a) The criterion requiring the funds to be for an unexpected expense, the panel considered the circumstances that lead to the appellant's need for new clothing. According to the appellant's argument, she requires new clothing because she has experienced changes in her weight due to new medication, which has been confirmed by her physician. The panel considered the appellant's evidence in her Notice of Appeal and testimony. The appellant did provide sufficient evidence that her weight gain was unexpected from the new medications and more immediate than gradual. The panel finds the ministry reasonably determined that the appellant's need for clothing was not unexpected.
- (b) Regarding the ministry's determination that the appellant does not face imminent danger to her health if she fails to obtain the requested items, the panel considered both the appellant's and the ministry's arguments. The appellant argues without new clothing she will continue to get bruising. The ministry argues that the appellant has not provided sufficient evidence to support her position. The panel reviewed the evidence presented by the appellant and finds that the ministry was reasonable to determine that there is insufficient evidence to determine that the appellant faces imminent danger to her physical health if she fails to obtain new clothing.
- (c) Regarding the ministry's determination that the appellant has alternate resources available to obtain the items, the panel considered the appellant's evidence that she visited community thrift stores. The panel considered the appellant's testimony that she recently visited local thrift stores and was unable to find any clothing that fit. However, the panel notes that this

information about the appellant seeking clothing at secondhand stores was not before the ministry at reconsideration. The panel finds that the appellant has not demonstrated that she is unable to budget for clothing from her support allowance on a gradual basis. There is insufficient evidence there is a lack of resources available for the appellant's support allowance to budget on a gradual basis for clothing when larger sizes are required. The panel finds the ministry was reasonable to determine the appellant has alternate resources to obtain the items she requested.

Regarding the ministry's determination that the appellant's request for a crisis supplement clothing cannot be approved because the appellant has reached the maximum crisis supplement for clothing allowed for the current 12-month period under the legislation, the panel reviewed the legislation and the documentation of her past crisis supplement for clothing. The panel finds the legislation, EAPWDR s. 57(4)(c), allows the ministry to approve a crisis supplement for clothing for up to \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement. The panel relied on the ministry's testimony that the appellant requested, and was granted, a \$100 crisis supplement for clothing in April 2016 and, therefore, she cannot be approved for further crisis supplements for clothing before April 2017. The panel finds there is no ministerial discretion provided by this part of the act. The panel finds the ministry was reasonable to determine the appellant's request for a crisis supplement for clothing could not be approved because the appellant had reached the maximum allowable crisis supplement for clothing for this 12-month period.

The panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore confirms the ministry's decision. The appellant is not successful in her appeal.