

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of May 17th, 2017 in which the ministry deemed the appellant not eligible for a crisis supplement because the legislative criteria had not been met; pursuant to Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPDR).

PART D – Relevant Legislation

EAPDR - *Employment and Assistance for Persons with Disabilities Regulation, Section 57(1)*
EAA - *Employment and Assistance Act, Section 22(4)*

PART E – Summary of Facts

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

- 1) The appellant is a sole recipient of disability assistance in the amount of \$1,298.42 per month (\$606.42 support, \$375.00 shelter, \$52.00 transportation, \$165.00 dietary supplement & \$100.00 volunteer supplement). The appellant's monthly shelter costs are \$738.00 (\$680.00 rent & \$58.00 utilities).
- 2) **April 20th, 2017** – A request for a crisis supplement to purchase clothing. The appellant indicated in this request, that she had lost weight and that her clothes no longer fit and were falling apart.
- 3) A dated Request for Reconsideration – **May 11th, 2017**. The appellant submits that she has lost a lot of weight in a short amount of time and that her clothes are falling off. The appellant submits that she does not have the money to replace the clothes, as her expenses total \$1,200.00 (\$680.00 rent, \$75.00 phone, \$200.00 gas & \$200.00 special diet). The appellant submits that her pants potentially falling off may cause falls, and wearing shirts too big would expose her skin to the sun (which she has an allergy to) and that not being able to leave her home would prevent her from accessing health care.
- 4) A dated **April 15th, 2017** note from the family physician indicating that the appellant had lost 16 lbs in a two week time period.
- 5) A dated **May 11th, 2017** letter from a community legal advocate indicating that the appellant does meet the legislative criteria as per Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation.

Additional Information

May 30th, 2017 - The appellant stated on her Notice to Appeal that she has been in her residence for 13 years, and that the rent (\$680.00) is very low when compared to other two bedroom rental units advertised in the community.

At the hearing, the appellant submitted a 17 page rental housing sheet which highlights the units available in the community and at what price. The panel determined that this evidence was admissible under section 22(4) of the *Employment and Assistance Act* as it was in support of the information that was before the reconsideration officer at the time the decision was made.

The ministry did not object to the admission of the information.

At the hearing, the ministry relied on the reconsideration decision and did not introduce any additional evidence.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry of Social Development and Social Innovation's (the "ministry") Reconsideration Decision of May 17th, 2017 in which the ministry deemed the appellant not eligible for a crisis supplement because all of the legislative criteria had not been met; pursuant to Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPDR).

The relevant sections of the legislation are as follows:

EAPDR - *Employment and Assistance for Persons with Disabilities Regulation, Section 57(1)*

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*.**

Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for a crisis supplement to pay for clothing pursuant to Section 57(1) of the EAPDR. In her Notice of Appeal dated May 11th, 2017 the appellant stated that she disagrees with the decision to deny the crisis supplement on the basis that her rent of (\$680.00 per month and \$58.00 for utilities) exceeds her shelter portion, because she has been in her residence for 13 years, and would not be able to find cheaper rent anywhere else in the community.

The ministry notes that the purpose of a crisis supplement is to address unexpected emergency needs to prevent imminent danger to health and not intended to augment monthly assistance. Further, the ministry notes that under Section 57(1) of the EAPDR, a crisis supplement can be provided if all three of the following criteria are met; **1) The need for the item is unexpected;** the ministry's position is that the appellant's sudden weight loss is an unexpected expense and therefore, this eligibility requirement has been met. Referring to the second criteria, **2) Failure to obtain the necessary supplement will result in imminent danger to health or the removal of a child under the *Child, and Family Community Service Act*.** The ministry notes that while the appellant indicates she may be adversely exposed to the sun and or fall given that her clothing is too large, the exposure to the sun and or potential falls may only be considered possible health concerns. The ministry notes that the appellant did not provide sufficient evidence to support the probability of immediacy that failure to obtain the supplement would place the appellant's physical health at risk or in imminent danger, and therefore, this eligibility requirement has not been met.

Thirdly, **3) There are no alternate resources available to obtain the item or meet the expense.** The ministry provides that the appellant's shelter allowance is intended to be used for shelter - including utilities, and that the appellant has chosen to rent accommodations which exceed the shelter allowance. The ministry notes that because the appellant diverts some of her support funds to pay for her shelter costs, it does not change the fact that the appellant is provided the support funds for such things as having to replace clothing. Further, the ministry provides that if the appellant had not chosen to rent accommodations which exceed her shelter allowance, there is no evidence to support that the appellant would be unable to replace her clothing gradually. Moreover, the ministry notes that the appellant is provided a diet supplement each month to address her dietary needs. Overall, the ministry provides that this eligibility requirement has not been met.

The ministry's position is that because the appellant's request does not meet all three of the required eligibility criteria, approval for a crisis supplement cannot be granted.

Section 57(1) of the EAPDR states that 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*.

Accordingly, the panel finds that the evidence does support the appellant having met the first criteria of eligibility indicated in Section 57(1)(a) of the EAPDR, where the appellant had evidenced that she had lost sudden weight over a short period of time, and that the need to replace clothing is an unexpected expense.

Additionally, while the panel acknowledges the appellant's larger clothes as a result of the sudden weight loss presents a health concern, it finds that the appellant did not provide sufficient evidence to support her claim of probable risk or threat of real imminent danger to her physical health if the crisis supplement for clothing was not granted. The panel provides that an example of real and likely imminent danger to physical health would refer to circumstances where an appellant would require adequate winter clothing in sub-zero weather. In the appellant's circumstance, the panel considers that it is a reasonable concern for the appellant that she may fall, or be adversely exposed to the sun, but that those concerns are not reasonably considered imminently dangerous to her physical health.

Moreover, the panel finds that the evidence establishes that the appellant does pay \$680.00 rent and \$58.00 utilities per month for shelter costs, and that the total cost of \$738.00 is above and beyond what shelter allowance she does receive (\$375.00) each month. The panel considers that the rental costs in the area, are in fact, much higher than what the appellant is currently renting the residence for, and as such, the panel finds that the ministry was unreasonable in its determination to consider this eligibility criteria as not having been met as a direct result of the appellant choosing to rent accommodation for a shelter cost beyond what she is provided each month. Finally, the panel considers that the appellant's monthly dietary supplement is irrelevant to whether or not she could afford to replace clothing. The panel considers that the intention of a dietary supplement would be to augment the diet of the appellant, rather than intended to replace clothing if unexpectedly necessary. As such, the panel finds that the ministry was unreasonable in citing the dietary supplement as a potential financial resource as part of the reason the appellant was denied the crisis supplement under Section 57(1)(a) of the EAPDR.

Overall, the panel finds that the ministry reasonably determined that the appellant is not eligible for a crisis supplement as not all of the three eligibility requirements pursuant to Section 57(1)(a) & (b)(i)(ii) of the EAPDR had been met.

Accordingly, the panel finds that the decision of the ministry to deem the appellant not eligible for a crisis supplement due to not meeting all of the eligibility requirements of Section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation*, a reasonable application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(b) and section 24(2)(a) of the *Employment and Assistance Act*. The appellant therefore is not successful in her appeal.