

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“the ministry”) Reconsideration Decision of August 30, 2017 in which the ministry determined that the appellant was ineligible for a crisis supplement for clothing because he did not meet the legislative criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), specifically that he did not demonstrate that:

- his need was unexpected;
- there were no alternate resources available; and
- failure to obtain the clothing would result in imminent danger to his physical health.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The appellant is a single recipient of disability assistance with no dependents.

The evidence before the ministry at reconsideration included the following:

- Request for Reconsideration submitted to the ministry on August 22, 2017 in which the appellant noted that:
 - he has not had a residence since July 5, 2017;
 - all his possessions, other than what he carried on his back, were lost on July 5, 2017.

Information Received after Reconsideration

On September 13, 2017 the appellant submitted a Notice of Appeal in which he noted that because he remains homeless his life is endangered. Apparently submitted with the appellant's Notice of Appeal was an undated, handwritten letter from the appellant summarized as follows:

- he was "breached" while on probation for possession of a knife;
- this constituted his third breach for possession of a knife;
- he was sentenced to 30 days' incarceration until approximately July 27, 2017;
- he will attempt to obtain a police report.

At the hearing the appellant stated that the police had confiscated his clothes, tools, knapsack and bicycle. His clothes were eventually returned to him, but the police had put them in an airtight bag. As a result they became mildewed and were impossible to clean. None of his other belongings were returned by the police. While he was incarcerated between July 5 and July 27 his belongings that remained in his apartment were either stolen or destroyed by the people who occupied it.

The appellant added that he had not put his mind to acquiring clothing from other sources until yesterday, when he sought help from a local community organization.

The panel determined that the additional written and oral evidence of the appellant regarding his arrest and incarceration and the loss of his clothing were admissible under Section 22 (4) of the Employment and Assistance Act as evidence in support of the records before the ministry at reconsideration because they provided additional detail regarding the loss of his clothing and his accommodation during his incarceration, initially noted by the appellant in his Request for Reconsideration.

PART F – Reasons for Panel Decision

The decision under appeal is the reasonableness of the ministry's reconsideration decision of August 30, 2017 in which the ministry determined that the appellant was ineligible for a crisis supplement for clothing because he did not meet the legislative criteria set out in Section 57 (1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), specifically that he did not demonstrate that:

- his need was unexpected;
- there were no alternate resources available; and
- failure to obtain the clothing would result in imminent danger to his physical health.

The relevant legislation is as follows:

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;

The appellant argues that his need for a clothing supplement was unexpected, for two reasons: first, because the police confiscated his clothing at the time of his arrest and detention and returned it in a mildewed state; and secondly, because whatever clothing remained in his former apartment was either stolen or destroyed. He also argues that because he has remained homeless his life has been endangered.

The ministry relied on the reconsideration decision, summarized as follows:

- the appellant's need was not unexpected because he knew or ought to have known that the police would seize his belongings if he was engaged in unlawful behaviour;
- the appellant did not demonstrate there were no alternate resources available to meet his need; and
- the appellant did not provide evidence that failure to obtain a crisis supplement for clothing would imminently endanger his health.

Panel Decision

EAPWDR Section 57 (1) states that the minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance, if:

1. the supplement is required to meet an unexpected need;
2. there are no resources available to purchase the items; and
3. failure to obtain the items will result in imminent danger to the physical health of a member of the family unit.

All 3 of these criteria must be met before a recipient of disability assistance can be provided a crisis supplement.

1. Unexpected Need or Expense

The ministry's position is that the appellant's need for a crisis supplement for clothing was not unexpected because he ought to have known that the police would seize his clothing when he was arrested and detained. However, the ministry did not consider that the appellant lost his apartment and all of his remaining belongings during his incarceration. While the seizure of clothing in the appellant's possession at the time of arrest may not have been unexpected, the appellant did not anticipate that his remaining clothing would be stolen or destroyed when he returned to his apartment on July 27th.

The panel therefore finds that the ministry's determination that the appellant's need for a crisis supplement for clothing was not unexpected was not reasonably supported by the evidence.

2. No Resources Available

The ministry's position is that the appellant failed to investigate alternate resources to meet his need. The evidence indicates that the appellant tried to obtain clothing at only one of several community resources in his city. During the hearing the appellant testified that he had not put his mind to finding alternate resources until the day before his appeal hearing.

The panel therefore finds that the ministry reasonably determined that the appellant failed to demonstrate that there were no alternate resources available to meet his need.

3. Imminent Danger to Physical Health

The ministry's position is that there was insufficient evidence provided by the appellant to support a determination that failure to obtain the needed clothing would result in imminent danger to the appellant's physical health. The appellant did not submit any evidence to the ministry regarding his physical health other than a statement in his Notice of Appeal that his life was endangered because he remains homeless. The panel also notes that the appellant requested a crisis supplement for clothing during the height of summer, when warm clothing was not needed to safeguard his health.

The panel finds that the ministry reasonably determined that there was insufficient evidence to determine that failure to provide the needed clothing items would result in imminent danger to the appellant's physical health.

Conclusion

The panel finds that although the ministry was not reasonable in determining that the appellant's need for a crisis supplement was not unexpected, the ministry's determination that the appellant was ineligible for a crisis supplement for clothing because the remaining legislative criteria in EAPWDR Section 57 (1) were not met is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in his appeal.