

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated October 30,2017 (the “Reconsideration”) which determined that the Appellant was not eligible for a crisis supplement to purchase clothing under Section 59(1) of the Employment and Assistance Regulation (EAR) because he did not meet any of the three requirements. The Ministry held that the Appellant’s need was not an unexpected expense, that failure to obtain the item would not result in imminent danger to the physical health of the Appellant and that the Appellant did not provide sufficient evidence that there were no alternate resources available.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation EAR Section 59(1)

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the Ministry at the time of reconsideration included the Request for Reconsideration (RFR) dated October 16, 2017 in which the Appellant stated that:

- He has spent several years on the street due to mental illness
- He has nothing as far as underwear, socks, shirts and has holes in his shoes
- He hasn't been able to purchase or obtain clothing since losing all his belongings in the city
- He has only what he is wearing on a daily basis
- He states it is crucial to be clean and have self-dignity and respect
- The Appellant requests shoes because his have holes; clothing and especially shoes for his physical health because 'fall and winter are upon us'

In the Appellant's Notice of Appeal (NOA) dated November 2, 2017 he stated:

- His cost of rent and food per month exceed his entitlement allowance
- He does not have 'proper footwear without hole/wet feet and warm jacket (it's snowing) and under garments (underwear, socks etc)'
- He states it is winter and he owns only a t-shirt, jeans and worn shoes with holes in the soles
- He claims 'constantly wet feet I'm suffering cold and flu I'm constantly cold and suffering cold and flu symptoms constantly.'

The Ministry relied on its Reconsideration Decision as the ministry's submission on the appeal.

The panel concluded the NOA provided information in support of the issue addressed in the reconsideration and corroborates the information provided by the Appellant at reconsideration. Accordingly, the panel has admitted these additional comments by the Appellant as being in support of information and records that were before the Ministry at the time of reconsideration, in accordance with Section 22(4) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue is whether the Ministry's decision to deny the Appellant a crisis supplement to purchase clothing because the Ministry found the need not to be unexpected, not an imminent endangerment to the Appellant's physical health and that alternative resources to meet the need had not been sourced as required under Section 59 (1) of the Employment and Assistance Regulation was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant.

Section 59 (1) of the Employment and Assistance Regulation provides three requirements to be fulfilled in order to qualify for crisis supplement for clothing:

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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*.

The Appellant's Position

The Appellant argues that it is winter and he does not have any clothing other than what he is wearing, which is a t-shirt, jeans and shoes with holes. He states he lost his baggage and belongings in the city. The Appellant claims to be constantly sick with the cold/flu and with wet feet.

The Ministry's Position

The Ministry argues the Appellant lost his clothing in 2014 and therefore it is not an unexpected need in 2017. According to the Ministry the Appellant receives income assistance in accordance with legislation and he should have been saving for clothing over those three years. The Ministry argues the Appellant has not proven that the failure to obtain additional clothing will place the Appellant's physical health in imminent or immediate danger. The Ministry did not receive any evidence that the Appellant attempted to ascertain clothing from alternative resources.

Panel Decision

In order to qualify for a crisis supplement for clothing a person on income assistance must meet all three requirements as outlined in Section 59 (1) of EAR.

Section 59 (1)(a) states the applicant must require the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The Ministry argues that the Appellant had previously informed the Ministry he lost his clothing in 2014 and has needed clothing since then. The Appellant does not dispute this timeline. The Appellant states only that he lost his baggage and belongings in the city, without providing a date. Given that the Appellant lost his clothing in 2014 and it is now 2017 the Panel finds the Ministry reasonably concluded that the Appellant has not established his need was unexpected or unexpectedly needed as required under Section 59 (1)(a).

Section 59 (1)(a) further requires demonstration that the Appellant is unable to meet the expense or obtain the item because there are no resources available to the Appellant. In the reconsideration decision the Ministry stated the Appellant gave all his October assistance funds to his mother. The Appellant does not refute this. In his RFR, the Appellant wrote that he has not been able to purchase or obtain clothing since losing his belongings, and he does not describe any specific efforts he has made to access community resources. The Appellant states that his cost of rent and food per month exceed his entitlement allowance. The Ministry argues the support allowances are intended to be used for daily living expenses such as clothing and that there is insufficient evidence the Appellant could not budget for clothing on a gradual basis. Given that the Appellant gave assistance funds that he could have used to purchase clothing to his mother and that he did not provide evidence of any attempts to ascertain clothing from any sources, the Panel finds the Ministry reasonably concluded that the Appellant has not demonstrated that alternative resources are not available as required under Section 59 (1)(a).

Section 59 (1)(b) states in order for a crisis supplement to be granted it must be demonstrated that the failure to meet the expense or obtain the item will result in the imminent danger to the physical health of the person. In his NOA the Appellant states he has wet feet because of holes in his footwear; is in need of a warm jacket (it's snowing) and he is constantly suffering from 'cold/flu'. The evidence before the Ministry at the time of reconsideration was the Appellant's statement in the RFR asking for shoes because they had holes and for clothing and proper footwear because 'fall/winter is upon us'. The Appellant wrote that he has spent several years on the street due to mental illness. The Ministry does not address the Appellant's comments about the need for clothing as fall/winter are upon us. The Ministry's only argument is there is insufficient evidence to support a probability of immediacy that failure to obtain the additional clothing will place his physical health in imminent/immediate danger. The Panel finds that, in the reconsideration decision, the Ministry simply stated its interpretation of the requirement in Section 59(1)(b)(i) and a conclusion that there is insufficient evidence from the Appellant, without reviewing any of the evidence provided by the Appellant in either his RFR or his NOA. As the Panel finds the ministry has not sufficiently considered the Appellant's evidence and circumstances the Panel also finds the Ministry's conclusion on this criterion is not reasonable. .

Conclusion

The Panel finds that the evidence establishes the Ministry was reasonable in its determination that not all of the criteria set out in Section 59 (1) of the EAR have been met by the Appellant. As a result, the Panel finds that the Ministry decision to deny the Appellant's request for a crisis supplement for clothing was a reasonable application of the legislation and was reasonably supported by the evidence. The Panel confirms the Ministry's reconsideration decision. The Appellant is not successful in the appeal.