

PART C – DECISION UNDER APPEAL

The decision under appeal is reconsideration decision (the “Reconsideration”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”), dated November 17, 2017, which determined that the Appellant was not eligible for a crisis supplement for clothing for herself and her children under section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) because the Appellant had failed to demonstrate that:

- the need for the clothing was not unexpected;
- there were no alternate resources available to the Appellant to obtain the clothing; and
- failure to obtain the clothing would result in imminent danger to health or removal of a child under the Child, Family and Community Service Act (“CFCSA”).

The Ministry also determined that the Appellant was ineligible for a crisis supplement by virtue of section 57(4) of the EAPWDR, which limits crisis supplements for clothing to \$100.00 per person in a family unit in the 12 month period preceding an application for a crisis supplement for clothing.

PART D – RELEVANT LEGISLATION

EAPWDR, section 57

PART E – SUMMARY OF FACTS

Information before the Ministry at Reconsideration

The only documentary information before the Ministry at the time of Reconsideration was the Appellant's Request for Reconsideration ("RFR"), dated November 15, 2017, in which the Appellant stated that:

- her jacket was taken during the second week of November when she was at the office of a local society while she was speaking with a worker from that program;
- she had checked the lost and found of that society but had not located her jacket; and
- She was currently suffering from a cold.

The RFR also set out that the Appellant had initially contacted the Ministry on November 9, 2017, requesting a crisis supplement for clothing as her children had outgrown their winter clothing and that someone had also stolen their clothing in June. The Appellant also indicated that she couldn't afford to buy her children clothing after paying her bills. The Appellant also indicated that she had two cash loans to pay.

New Information Submitted on Appeal

In her Notice of Appeal, dated November 30, 2017 ("NOA"), the Appellant states simply that she cannot afford a winter jacket as she is "in debt with 2 loan places."

On December 13, 2017, following the submission of her NOA, the Appellant submitted the following documents to the tribunal by fax:

- A three page summary of transactions on the Appellant's chequing account for the months of October and November, 2017 and for December 13, 2017.
- A copy of what appears to be the Appellant's BC Hydro bill, dated December 15, 2017;
- A summary of what appears to be the Appellant's payments to BC Hydro throughout 2017.

Panel Decision on Admissibility of New Information

The panel admits the information on the NOA and the above-described documents which were submitted on December 13, 2017, pursuant to section 22(4) of the *Employment and Assistance Act* (the "EAA") as written testimony in support of information and records that were before the Ministry at the time of Reconsideration as they elucidate the Appellant's advice to the Ministry about her financial circumstances and that the reason for her need for a crisis supplement was her inability to pay bills.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a crisis supplement for clothing for herself and her children, pursuant to section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”) because the Appellant had failed to demonstrate that:

- the need for the clothing was not unexpected;
- there were no alternate resources available to the Appellant to obtain the clothing; and
- failure to obtain the clothing would result in imminent danger to health or removal of a child under the Child, Family and Community Service Act (“CFCSA”).

Also at issue is whether the Ministry reasonably determined that the Appellant was ineligible for a crisis supplement by virtue of section 57(4) of the EAPWDR, which limits crisis supplements for clothing to \$100.00 per person in a family unit in the 12 month period preceding an application for a crisis supplement for clothing.

Statutory Framework

Section 57 of the EAPWDR authorizes the Ministry to provide crisis supplements to recipients of disability assistance where specific criteria are met:

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*.

Section 57(4) sets out limitations for various types of crisis supplements which may be provided by the Ministry:

- (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.

Position of the Appellant

The Appellant's position is that she is in need of a crisis supplement for clothing for a variety of reasons, including:

- she cannot afford a winter jacket;
- her jacket was stolen sometime in the early part of November;
- she has two cash loans that remain unpaid;
- her children have outgrown their winter clothing; and
- someone had taken her children's clothing in June.

Position of the Ministry

The Ministry's position, as expressed in the Reconsideration, is that the Appellant does not meet the criteria set out in sections 57(1):

- the need for clothing was not unexpected;
- the Appellant has or should have alternative resources available to purchase clothing; and
- the Appellant is not facing either an imminent danger to her physical health or the health of anyone in her family and is not at risk of her children being removed under the CFCSA.

The Ministry also takes the position that the Appellant is ineligible for a crisis supplement because she had received a crisis supplement for clothing in the amount of \$100.00 for herself and for each member of her family in December, 2016.

Panel Decision

Section 57(1)(b) of the EAPWDR sets out that a recipient of disability assistance may be entitled to a crisis supplement in order “to meet an unexpected expense or obtain an item unexpectedly needed” where the recipient “is unable to meet the expense or obtain the item because there are no resources available to the family unit” to otherwise meet the need.

The Appellant gave a variety of reasons for requiring a crisis supplement in early November, 2017, including the theft of her children’s clothing in June, her children having grown out of their winter clothing, and her own jacket having been stolen in the second week of November, 2017. The Appellant also described having difficulty making ends meet because of her bills in addition to two outstanding cash loans that she owes. The panel finds that the Ministry was reasonable in its determination that clothing for her children was not an unexpected expense, given the Appellant’s statement that her children grew out of their winter clothing and had some of their clothing stolen in June of 2017. It is not unexpected that children may grow out of their clothing and may also need clothing in November where their clothing had been stolen the previous June. Likewise, while the panel finds that the Ministry was not unreasonable its finding that leaving belongings unsecured creates a risk of those belongings being stolen and, accordingly, the panel finds that the Ministry’s determination that the need for clothing was not unexpected was not unreasonable given the evidence of the Appellant.

The Appellant also gave evidence about having insufficient funds to pay for clothing due to her monthly bills and two outstanding cash loans. The Ministry position is that the Appellant’s support allowance is intended to be used for everyday items such as clothing. Given the length of time between the Appellant’s children’s clothing having allegedly been stolen and the time the Appellant applied for a crisis supplement for clothing, the panel finds that the Ministry reasonably determined that the Appellant had not demonstrated that there were no alternative resources available to her and could have replaced the stolen or outgrown clothing by effective budgeting. The Appellant, moreover, provided no evidence of having attempted to secure replacement clothing by any alternative means such as local charities.

In addition to the criteria set out in section 57(1)(a) of the EAPWDR, section 57(1)(b) requires that a recipient of disability assistance demonstrate that the failure to meet an expense for which a crisis supplement is sought will result in:

- Imminent danger to the physical health of any person in the family unit; or
- Removal of a child under the *Child, Family, and Community Service Act*.

The Appellant states in the RFR that she had a cold. No other evidence of imminent danger to the physical health of the Appellant or her children is referenced by the Appellant. There is no suggestion in any of the documents that the Appellant has filed that her children are at risk of removal under the CFCSA. In the result, the panel finds that the Ministry reasonably determined that the Appellant had not met the criteria set out in section 57(1)(b) of the EAPWDR that failure to meet the expense required for clothing would result in imminent danger to the health of the Appellant or her children or the removal of the Appellant’s children under the CFCSA.

Finally, section 57(4) of the EAPWDR limits the amount available to a recipient for a clothing supplement to the lesser of:

- \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
- \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

The Reconsideration sets out that the Appellant had received a \$100 crisis supplement for herself and each of her children in December, 2016. As this was within the preceding 12 calendar months of the date of the request for the crisis supplement for clothing that is the subject of this appeal, the panel finds that the Ministry reasonably applied the provisions of section 57(4) of the EAPWDR in determining that the Appellant was not eligible for a crisis supplement for clothing at the time of her application by virtue of having received the maximum allowed within the preceding 12 calendar months.

On a review of all of the evidence and relevant legislation, the panel finds that the Ministry's Reconsideration decision was a reasonable application of section 57 of the EAPWDR in the Appellant's circumstances and was reasonably supported by the evidence. In the result, the panel confirms the Ministry's decision and the Appellant is not successful in this appeal.