

## **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 31, 2018, which found that the appellant was not eligible for a crisis supplement for clothing because the appellant's request did not meet the criteria set out in section 59(1)(b)(i) of the Employment and Assistance Regulation (EAR). The ministry determined that there was no evidence to indicate that failure to obtain clothing will result in imminent danger to the appellant's physical health.

As well, the ministry found that the appellant was issued \$100 for a crisis supplement for clothing, in October 2017. Section 59(4)(c)(i) of the EAR states that a crisis supplement for clothing must not exceed \$100 in the 12 calendar months preceding the date of application for the crisis supplement. Therefore, the ministry determined that the appellant is not eligible to receive over the \$100 amount, for a crisis supplement for clothing, until November 2018.

## **PART D – RELEVANT LEGISLATION**

*Employment and Assistance Act* (EAA) section 4

Employment and Assistance Regulation (EAR) section 59

## **PART E – SUMMARY OF FACTS**

### Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant stated that his items were stolen along with his mobile phone before he went into treatment, mid-March. He paid for out-of-pocket prescribed medication for vertigo and now is short of funds for clothing. His shoes have worn soles and he was able to get a couple of second-hand items.
- The appellant was issued a crisis supplement for clothing of \$100, in October 2017.

### Additional Evidence

#### **May 16, 2018 - Request for Reconsideration**

The appellant is currently in a treatment facility and is trying to improve his life. He is desperately seeking funds for footwear and clothing. The appellant is a larger man 6'2", 300 lbs. and is struggling to find second-hand shoes and clothing that fit his new life. He goes to recovery meetings and church. He is trying to have dignity and hold his head high. He is wearing clothes too small and also has foot pain because his shoes are too small and worn out. The appellant is in desperate need of financial help. He has been clean and sober for three months and is looking forward to getting back to work.

#### **Appellant**

In his Notice of Appeal, dated June 12, 2018, the appellant states, that he is in extreme need of clothing. He is in a recovery house and unable to work. His shoes are falling apart. He wears XXX clothing, has size 14 feet and struggles to find donations. He also needs medication.

The information in the Notice of Appeal was in support of the evidence before the ministry at reconsideration. It is therefore admitted under section 22 (4) of the *Employment and Assistance Act*.

At the hearing the appellant stated that he had everything stolen and lost his clothing. It's a humbling experience. He is in a recovery house. The appellant is a larger man and finds it difficult to find any donations. He attends church with worn out shoes. He is in desperate need.

His physical health is affected as his feet aren't doing well, he has a bad case of vertigo and he is wearing restrictive clothing – not healthy.

The appellant also stated that the information in the ministry records that state, "...you were able to get a couple second hand items." should read, "...you were unable to get a couple second hand items."

#### **Ministry**

At the hearing, the ministry stated that as per section 59, there is a \$100 maximum regardless of all previous requirements. The ministry also stated that the appellant's physical health issues are reasonable things to mention and agrees that hurting feet would be a physical issue, and did meet danger to physical pain - could qualify for physical danger. However, if the crisis amount is maxed out in the past 12 months, it voids the other requirements.

As well, the ministry stated that the information the appellant corrected, "...you were unable to get a couple second hand items." would not have changed the decision.

## PART F – REASONS FOR PANEL DECISION

The issue is whether the ministry's decision, dated May 31, 2018, to deny the appellant a crisis supplement for clothing was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstances.

The ministry found that the appellant was not eligible for a crisis supplement for clothing because the appellant's request did not meet the criteria set out in section 59(1)(b)(i) of the Employment and Assistance Regulation (EAR). The ministry determined that there was no evidence to indicate that failure to obtain clothing will result in imminent danger to the appellant's physical health.

As well, the ministry found that the appellant was issued \$100 for a crisis supplement for clothing, in October 2017. Section 59(4)(c)(i) of the EAR states that a crisis supplement for clothing must not exceed \$100 in the 12 calendar months preceding the date of application for the crisis supplement. Therefore the ministry determined that the appellant is not eligible to receive over the \$100 amount for a crisis supplement for clothing until November 2018.

The ministry was satisfied that the request was an unexpected expense and that there were no resources to obtain clothing. Therefore section 59(1)(a) of the EAR was met.

### Relevant Legislation

#### Employment and Assistance Act

##### **Income assistance and supplements**

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

#### Employment and Assistance Regulation

##### **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,

...

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

...

- (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, ...

#### Appellant Argument

The appellant's position is that he is desperate to receive funds for footwear and clothing. He is a larger man and struggles to find donations. He attends church with worn out shoes. His physical health is affected as his feet aren't doing well, and he is wearing restrictive clothing, which is not healthy.

#### Ministry Argument

The ministry's position is that as the appellant received the maximum allowable for a crisis supplement for clothing, this voids other legislative requirements.

## **Panel Decision**

Although the appellant wrote in his Notice of Appeal that he also needs medication, the panel finds that the ministry's reconsideration decision relates only to a crisis supplement for clothing. Therefore, this is the decision over which the panel has jurisdiction on this appeal.

Section 59(1) of the EAR states, "The minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship assistance if ... (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 wrote in his request for reconsideration that his clothes are too small and he also has foot pain because his shoes are too small and worn out. During the hearing, the appellant stated that his physical health is affected as his feet aren't doing well and he is wearing restrictive clothing, which is not healthy.

During the hearing, the ministry agreed that hurting feet could qualify for physical danger.

Considering the evidence, and having regard to the ministry's acknowledgement that hurting feet could qualify for physical danger, the panel finds the ministry unreasonably determined that the requirement of section 59(1)(b)(i) of the EAR was not met.

Section 59(4) of the EAR states, "A crisis supplement provided for ... clothing... must not exceed the smaller of \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement....".

The appellant's position is that he is in desperate need of funds for clothing and footwear.

The ministry's position is that as the appellant received the maximum allocation of \$100 for a crisis clothing supplement in October 2017, he would not be eligible to be considered for an additional clothing crisis supplement until November 2018. Therefore, as section 59(4) of the EAR was not met, this voids the other legislative requirements.

The panel acknowledges that the appellant is in desperate need of clothing and footwear, but finds, as per section 59(4)(c)(i) of the EAR, the ministry reasonably determined that the appellant would not be eligible to be considered for an additional crisis supplement for clothing until November 2018.

## **Conclusion**

For this reason, the panel finds the ministry's decision was reasonably supported by the evidence, and confirms the decision. Therefore, the appellant's appeal is unsuccessful.

<b>PART G – ORDER</b>	
<b>THE PANEL DECISION IS: (Check one)</b> <input checked="" type="checkbox"/> <b>UNANIMOUS</b> <input type="checkbox"/> <b>BY MAJORITY</b>	
<b>THE PANEL</b> <input checked="" type="checkbox"/> <b>CONFIRMS THE MINISTRY DECISION</b> <input type="checkbox"/> <b>RESCINDS THE MINISTRY DECISION</b>	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b> <i>Employment and Assistance Act</i> Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/> and Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PART H – SIGNATURES</b>	
PRINT NAME <b>Connie Simonsen</b>	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) <b>2018/July/3</b>

PRINT NAME <b>Susanne Dahlin</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>2018/July/3</b>
PRINT NAME <b>Nancy Eidsvik</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>2018/July/3</b>