

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of June 14, 2018 in which the ministry determined that the appellant was ineligible for a crisis supplement for clothing because she did not meet the legislative criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry was not satisfied that:

- the appellant’s need for the supplement was unexpected;
- there were no alternate resources available; and
- failure to obtain the clothing would result in imminent danger to her physical health.

The ministry also determined that pursuant to EAPWDR Section 57 (4) (i) the appellant was ineligible for a crisis supplement for clothing because she had previously received a clothing supplement within the 12 calendar month period preceding the date of her current application.

**PART D – RELEVANT LEGISLATION**

EAPWDR Section 5 (1), (2) and (4)

## **PART E – SUMMARY OF FACTS**

The appellant is a sole recipient of Persons with Disabilities (PWD) assistance.

Information before the ministry at reconsideration included the appellant's request for reconsideration, submitted to the ministry on May 28, 2018. In Section 3 of the request for reconsideration the appellant noted the following information:

- she requires a new bra in a size not usually available in stores at a cost of \$150, as well as a bathing suit and other summer clothes;
- she has no summer clothes other than a skirt;
- she was BNE, assaulted and robbed [in May 2018];
- her parents just moved and put her belongings at the back of a storage locker with their belongings in front;
- her parents are out of town;
- she has a heart problem and is not supposed to do any heavy lifting.

### **Information Received after Reconsideration**

#### **Notice of Appeal**

In her Notice of Appeal dated June 23, 2018 the appellant wrote that her health is affected because she has arthritis in her back, neck, knees and ankles. She has no summer clothes and gets hot and cold flashes ("heat exhaustion real easy").

#### **Oral Evidence at the Hearing**

Much of the appellant's oral evidence reiterated the information contained in her request for reconsideration and notice of appeal. New oral information provided by her at the hearing included:

- her arthritis has worsened and her upper back is very painful due to the absence of support provided by a bra;
- her bra is broken and cannot be repaired;
- her clothing needs exceed the \$100 maximum crisis supplement for clothing;
- because she has no summer clothing she needs to stay in an air conditioned building all day, which prevents her from going outside to help the needy;
- she gave \$120 to someone to buy cigarettes for her and he stole it from her;
- she had money taken from her 3 times in the past month;
- she has tardive dyskinesia (a side effect of medication) which is life-threatening and she may also suffer from IBS (irritable bowel syndrome);
- she doesn't have summer clothes because a woman took a large bag of her clothing.

The panel determined that the additional evidence provided by the appellant in her notice of appeal and during the hearing 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 her need for clothing and the effect of a lack of a bra and summer clothing upon her health, which were issues reviewed by the ministry at reconsideration.

The ministry relied on the reconsideration decision.

## **PART F – REASONS FOR PANEL DECISION**

The decision under appeal is the reasonableness of the ministry's reconsideration decision of June 14, 2018 in which the ministry determined that the appellant was ineligible for a crisis supplement for clothing because she did not meet the legislative criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry was not satisfied that:

- the appellant's need for the supplement was unexpected;
- there were no alternate resources available; and
- failure to obtain the clothing would result in imminent danger to her physical health.

The ministry also determined that pursuant to EAPWDR Section 57 (4) (c) (i) the appellant was ineligible for a crisis supplement for clothing because she had previously received a clothing supplement within the 12 calendar month period preceding the date of her current application.

### **Relevant legislation:**

#### **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;

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(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.

The appellant argues that her need for summer clothing was unexpected, there were no alternate resources available to meet her need and failure to obtain the supplement will result in imminent danger to her physical health.

The ministry's position is set out in the reconsideration decision, summarized as follows:

- the appellant's need for summer clothing was not an unexpected expense because she knew that she would need clothing for the summer months;
- the appellant should be able to budget for clothing from her total disability allowance of \$1225.52 per month (\$758.42 support, \$375 shelter, \$52 transportation supplement, \$40 diet supplement) and pays \$750 per month in rent;
- the appellant did not provide sufficient information to demonstrate that failure to provide the clothing would result in imminent danger to her physical health;

- in June 2017 the appellant received a crisis supplement for clothing and therefore was not eligible for another clothing supplement until June 2018.

## **PANEL DECISION**

### **Eligibility Criteria in Section 57 (1)**

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 replacement of seasonal clothing was not unexpected. Although the appellant reported that her summer clothing was locked in a storage locker she did not provide additional information to explain why she was unable to obtain access to the locker or authorization from her parents to have the locker opened by storage company personnel. At the hearing she added that she really didn't have summer clothing because someone had stolen a large bag of clothing from her.

Although the panel is sympathetic to the appellant's need for a bra that is more expensive due to her personal sizing needs it is not unreasonable to expect that she knew or ought to have known that she would need to retrieve and/or replace her underwear and her summer clothing.

The panel therefore finds that the ministry reasonably determined that the clothing supplement did not constitute an unexpected need.

#### **2. No Resources Available**

The ministry's position is that the appellant failed to demonstrate that she had no resources available to purchase the needed clothing. Although the panel recognizes that the appellant attempted to find second hand clothing in her size, she did not submit any additional information to explain why she was unable to budget for new and/or replacement clothing from her disability assistance income. The panel has also noted the appellant's oral evidence that she gave \$120 to a person to buy cigarettes for her.

The panel therefore finds that the ministry reasonably determined that the appellant failed to demonstrate that she had no alternate resources available to meet her need.

#### **3. Imminent Danger to Physical Health**

The ministry's position is that there was insufficient evidence provided by the appellant to support a finding that failure to obtain the needed clothing would result in imminent danger to her physical health. In her request for reconsideration the appellant indicated that she has a heart problem that prevents her from doing heavy lifting. In her notice of appeal she wrote that her health is affected because she has arthritis in her back, neck, knees and ankles, and is susceptible to heat exhaustion. During the hearing she stated that she suffers from tardive dyskinesia and possible IBS. She did not submit any medical information to support her position that her physical health would be imminently endangered if she failed to obtain a clothing supplement.

The panel accepts that the appellant is experiencing pain in her neck, back and shoulders because she lacks the support provided by a bra, and acknowledges that going outdoors during the hot summer months in clothing that is not appropriate for the weather can lead to heat-related health problems.

However, in order to meet this criterion the danger to physical health must be “imminent”, which means that that the items are urgently needed. The appellant has not submitted sufficient information to support a finding that her need is one that requires immediate action to prevent danger to her physical health.

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

**Limitations to Provision of Crisis Supplement under Section 57(4)**

The appellant submitted her request for a crisis supplement for clothing on May 22, 2018. Pursuant to EAPWDR Section 57 (2) a crisis supplement can only be provided for the calendar month in which the application or request is made. Section 57 (4) (c) (i) sets a limit of \$100 per person in the family unit during the 12 calendar month period preceding the date of application. The appellant received a clothing supplement in June 2017, which was within the 12 month period preceding her May 22, 2018 application.

The panel therefore finds that the ministry reasonably determined that the appellant was ineligible for a new clothing supplement because she had already received a clothing supplement within the 12 calendar months preceding her application.

**Conclusion**

The panel finds that the ministry’s determination that the appellant was ineligible for a crisis supplement for clothing because the legislative criteria set out in EAPWDR Section 57 (1) and (4) (c) (i) were not met is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in her appeal.

<b>PART G – ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
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>Joan Bubbs</b>	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) <b>2018/Jul/17</b>

PRINT NAME <b>Robert Kelly</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>2018/Jul/17</b>

PRINT NAME <b>Jean Lorenz</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>2018/Jul/17</b>