

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of June 18<sup>th</sup>, 2018 in which the ministry determined that the appellant was ineligible for crisis (clothing) supplement due to not meeting all of the legislative criteria, pursuant to section 57 (1)(a) & (b)(i) & (ii), of the Employment and Assistance for Persons with Disabilities Regulation. Specifically, the Ministry determined that the appellant did not meet the requirements of section 57(1)(a) that the clothing expense was unexpected and there were no resources available to meet the need, and (b)(i) that failure to receive the supplement presents an imminent danger to the appellant's physical health.

### **PART D – RELEVANT LEGISLATION**

EAPWD *Employment and Assistance for Persons with Disabilities Act, Section 5*

EAPWDR *Employment and Assistance for Persons with Disabilities Regulation, Section 57*

## **PART E – SUMMARY OF FACTS**

The information before the ministry at the time of reconsideration included the following:

- 1) **May 9<sup>th</sup>, 2018** – The appellant phoned the ministry requesting a crisis supplement for clothing as a result of on-going incontinence. The appellant explained that he had gone to the Salvation Army to look for free clothes, and there was nothing suitable for him there at that time.
- 2) **May 24<sup>th</sup>, 2018** – The appellant phoned the ministry requesting an update on his supplement request. The appellant provided that he only has a few articles of clothing, and that he annually receives the supplement because of his condition.
- 3) A ministry worker reviewed the request and had determined that the appellant is not eligible because he did not meet the legislative criteria. Specifically, the ministry found that the expense was not unexpected, as it is an on-going issue, and determined that the failure to receive the supplement would result in imminent danger to the appellant's health. The ministry denied the request.
- 4) **June 4<sup>th</sup>, 2018** - and the appellant requested a reconsideration of the decision.
- 5) **June 18<sup>th</sup>, 2018** – The appellant received the reconsideration decision.

### **Additional Information**

The appellant submitted a July 10<sup>th</sup>, 2018 letter, prepared by a Community Service Agent, which provided that the appellant did meet all of the legislative criteria, under section 57(1) (a) & (b) (i) & (ii) of the Employment and Assistance for Persons with Disabilities Regulation. Also submitted was a note from his physician indicating that he has an on-going need for new clothing because his hygiene is important to his overall health. The panel determined that the applicant's medical status, as indicated (Crohn's disease) was before the reconsideration officer and was in support of the information at the time the decision was made. The panel did admit the July 10<sup>th</sup>, 2018 letter, and the physician note – dated June 18<sup>th</sup>, 2018 pursuant to section 22(4) of the Employment and Assistance Act.

The ministry did not provide further information to be considered and relied on the reconsideration decision as its submission.

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

The issue under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of June 18<sup>th</sup>, 2018 in which the ministry determined that the appellant was ineligible for crisis (clothing) supplement due to not meeting all of the legislative criteria, pursuant to section 57 (1)(a) & (b)(i) & (ii), of the Employment and Assistance for Persons with Disabilities Regulation. Specifically, the Ministry determined that the appellant did not meet the requirements of section 57(1)(a) that the clothing expense was unexpected and there were no resources available to meet the need, and (b)(i) that failure to receive the supplement presents an imminent danger to the appellant's physical health.

### **Legislation**

#### **Employment and Assistance for Persons with Disabilities Act**

#### **Disability assistance and supplements**

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

#### **Employment and Assistance for Persons with Disabilities Regulation**

#### **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*.

## Panel Decision

The ministry's position is that the appellant is a sole recipient of disability assistance, and that as a result of not meeting the required criteria for a crisis supplement under section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation*, the appellant is not eligible for the crisis (clothing) supplement.

The appellant, as stated in his notice of appeal believes that the ministry is not giving him the factual legal information regarding the crisis supplement, and that too, he cannot appreciate why he received the supplement for a number of consecutive years prior without having any issue. The appellant submits that his clothes are washed more often than the average person based on his incontinence, and that the fibres in the clothing break down faster, and are stained to the point that they are not wearable. The appellant submits that he cannot predict how much clothing he may go through in any given year, and that his condition has worsened over the last year resulting in a need for replacement clothes.

The ministry submits that the appellant has an on-going medical condition which negates the unexpected nature of the expense, and is evidenced by the appellant requesting the crisis supplement for clothing annually. The ministry further submits that a failure to receive the supplement does not place the appellant's physical health in imminent danger. Further, the ministry asserts that to-date, they had not received a letter from a physician indicating the condition was worsening. The ministry provides that if the need for clothing is on-going, then the appellant should be looking for clothing from the Salvation Army throughout the year, as well as seeking clothing from other thrift stores, and not only when needed. The ministry submits that the appellant had come to rely on the annual allowance, which may explain the lack of effort to access other resources.

As set out in the *Employment and Assistance for Persons with Disabilities Regulation* section 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***. The panel finds that the evidence establishes that the ministry was reasonable to determine that the appellant had applied for the supplement a number of years in a row, and that his medical condition is one that is on-going, and therefore does not fit to the nature of an unexpected expense. Moreover, the panel finds that the evidence establishes that the ministry was reasonable to determine that the appellant did not make enough of an effort to access clothing from Salvation Army on an ongoing basis and that the lack of effort was evidenced by the appellant not mentioning that he tried to access clothing from any other thrift stores.

Respecting the final criteria, that the failure to meet the expense will result in (i) an imminent danger to the physical health of the appellant, the panel finds that the ministry was reasonable to determine that there had been no evidence provided that supported the appellant's claim that he was faced with an imminent danger to this health. The panel considers that the admitted physician note that was in support of the information that was before the reconsideration officer at the time the decision was made, dated June 18<sup>th</sup>, 2018 did not provide relevant support for the appellant's claim of an emergent need for clothing in order to avoid danger to his health. The panel found that the physician note indicated that the appellant has a need for good hygiene, and that new clothing would assist him in achieving that.

Accordingly, the panel finds that the ministry's decision was a reasonable application of the legislation in the circumstances of the appellant and therefore, the panel confirms the ministry's decision pursuant to section 24(1)(a) and section 24(2)(a) of the *Employment and Assistance Act*. The appellant is unsuccessful in his appeal.

**PART G – ORDER**

**THE PANEL DECISION IS: (Check one)**

**UNANIMOUS**

**BY MAJORITY**

**THE PANEL**

**CONFIRMS THE MINISTRY DECISION**

**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?  Yes  No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**

*Employment and Assistance Act*

Section 24(1)(a)  or Section 24(1)(b)

and

Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/08/10

PRINT NAME

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/10

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/08/10