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**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("Ministry") reconsideration decision dated December 18, 2018 which found the appellant ineligible for a crisis grant for clothing; a winter jacket and shoes. The ministry found that the Appellant did not have the resources available to obtain the requested items, but that there was insufficient evidence to establish that the need was unexpected and that there was no indication or evidence that failure to obtain the items would result in imminent danger to the appellant's health, as required under section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57

## **PART E – SUMMARY OF FACTS**

Information before the minister at reconsideration included:

- A letter dated December 10, 2018 from the appellant's advocate stating that the requested jacket and shoes are required due to the cold weather, that the zipper on his current jacket broke and his shoes began to leak prematurely and that he has not been able to obtain anything in his size from the community agencies he visited.
- The Appellant's Request for Reconsideration, signed December 10, 2018.

At the hearing, the appellant stated that he approached the ministry to ask for a jacket and shoes because his were "not good" and was told to return in a few days. He stated that when he returned to the ministry office, he was expecting they were going to give him a warm jacket but instead, he was handed a Reconsideration package and was told to fill it out.

In response to questions from the panel, the appellant stated that the jacket he had was a light rain jacket which he had for about three years, and the zipper had broken. He stated that he did not have a suitable pair of shoes.

The ministry referred to the Reconsideration Decision, which states that there was not enough evidence to establish that the need for a jacket was unexpected, and no indication of imminent danger to the appellant's health.

In response to questions from the panel, the ministry stated that the lack of a winter jacket would indicate an imminent danger to health.

## PART F – REASONS FOR PANEL DECISION

- The issue in this appeal is the reasonableness of the ministry decision which found the appellant ineligible for a crisis grant for a blanket and a winter jacket and shoes. The ministry found that the Appellant did not have the resources available to obtain the requested items, but that there was insufficient evidence to establish that the need was unexpected and that there was no indication or evidence that failure to obtain the items would result in imminent danger to the appellant's health, as required under section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

Legislation

*EAPWDA*

### **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.

*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, or
  - (ii) removal of a child under the *Child, Family and Community Service Act*.

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

(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services.

(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 \$40 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.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2, s. 2.]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

The panel admits the appellant's oral evidence under section 22(4) of the Employment and Assistance Act as testimony in support of the information and records that were before the minister when the decision being appealed was made. The appellant stated that he advised the ministry that his only jacket was the one he was wearing, a rain jacket, and that his shoes were not good. This information was also submitted at reconsideration.

Of the criteria for eligibility for a crisis grant, as required under s. 57(1), EAPWDR, the ministry found that the appellant did not meet two; that the expense or item be unexpectedly needed and that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

The panel accepts the appellant's evidence that a rain jacket was the only one he had and that his shoes were not suitable for the winter weather, and that failure to have these items would result in an imminent danger to physical health due to the cold weather at that time. The panel finds the ministry did not reasonably determine that his criterion was not met.

With respect to whether the appellant required the items to meet an unexpected need, the panel accepts the appellant's statement that his jacket zipper broke. Considering that the jacket was for rain, not cold temperatures, the panel accepts that breaking a zipper on a light jacket in winter would be considered an unexpected need. The panel finds the ministry did not reasonably determine that this criterion was not met.

The panel finds that the ministry decision to deny the appellant's request for a crisis grant was not a reasonable application of section 57, EAPWDR. The panel rescinds the decision.

The appellant's appeal is successful.

**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

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019 JAN 23

PRINT NAME

Nancy Eidsvik

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 JAN 23

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019 JAN 23