

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated August 1, 2019 which held that the appellant was not eligible for a crisis supplement for clothing pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA) and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

The ministry determined that the appellant meets the criterion of section 5 of the EAPWDA as the appellant is eligible for disability assistance and meets the criteria of section 57 1(a) of the EAPWDR; namely that the appellant does not have the resources to cover the cost of her request.

However, the ministry determined that the appellant failed to establish that, pursuant to subsection (1) (a), the crisis supplement for clothing is to meet an unexpected expense or was unexpectedly needed and pursuant to subsection 1 (b), that failure to meet the need would result in imminent danger to her physical health.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR- Section 57 (1)

Employment and Assistance for Persons with Disabilities Act – EAPWDA- Section 5

**PART E – SUMMARY OF FACTS**

The evidence before the ministry at the time of reconsideration consisted of:

1. Request for crisis supplement—clothing, signed and dated July 7, 2019, and stated the following responses:
  - What is your need? – “Dental assistance, going into surgery for dental treatment”.
  - The request is for the appellant's child.
  - How have you tried to meet this need on your own?-- “Yes, and it takes up my other needs for my money for food and clothing”.
  - What available resources do you have? – “There is some money in the bank [and] used it to pay in advance”.
  - What is the direct threat to your health and safety?—“Cavities and no normal dentist would deal with me unless I can go to the hospital for treatment and found a pediatric dentist who had a right to the hospital to take me in. Otherwise will have to go to [another city's] hospital [instead] of local hospital”.
2. Request for Reconsideration (RFR), signed and dated July 25, 2019, which in part, stated the following:
  - She does not have a credit with the dental office; “it is payment for coming hospital visit” for aesthetic.
  - It was paid in advance so that her child “will have a chance to be on the waiting list”.
  - The child “does not cooperate with regular dentist and [was] recommended to go to [a] specialist that [has] hospital right”.
  - The child has 2 cavities and a baby tooth needs to be extracted and the appellant does not want to wait too long for her child's dental treatment.
  - The rules are made by others and the appellant is just following them.

**Evidence on Appeal**

A Notice of Appeal (NOA), signed and dated August 6, 2019, which in part stated the request for funds is not to have money to buy clothing. Rather it is for reimbursement for the extra she has to pay out of pocket because her medical coverage is insufficient to pay the costs of her need for a hospital visit for dental services.

The panel finds that the information in the NOA is the appellant's argument.

**PART F – REASONS FOR PANEL DECISION**

The issue at appeal is whether the ministry's decision that the appellant failed to establish that her need for a crisis supplement for clothing was an unexpected expense or was unexpectedly needed and that failure to meet the need will result in imminent danger to her physical health, as required by Section 57 (1) (a) of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 57(1) of the EAPWDR sets out the eligibility requirements for providing crisis supplement, as follows:

**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 5 of EAPWDA provides as follows:****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.

*The Appellant's Position*

The appellant argues that she needs funds to help cover the costs of her dental treatment which includes a hospital visit and the use of anesthetic, and that she is not requesting funds for clothing.

*The Ministry's Position*

The ministry's position is that clothing is an ongoing expense that is not unexpected and that there is no evidence that failure to obtain a crisis supplement for clothing will result in imminent danger to her physical health. As such the legislative criteria, pursuant to section 59 of the EAR, have not been met and the appellant is not eligible for a crisis supplement for utilities.

*The Panel's Decision***Unexpected Need**

Section 57 (1) (a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.

In its reconsideration decision, the ministry stated that the appellant has not identified the need for clothing is unexpected or why her current clothing is not meeting her needs. It also stated that the appellant pre-paid for dental services in May 2019 but her request for a crisis supplement for clothing did not come until July 2019 therefore the need for clothing is not unexpected nor did she demonstrate other unexpected circumstances that occurred that prevented her from purchasing clothing she requires.

The evidence in this appeal clearly demonstrates that the appellant is not in need for a crisis supplement for clothing. The evidence clearly indicates that the appellant is in need for additional coverage for dental care and the panel highlights the request for crisis supplement for clothing application, the RFR and the NOA. Though the appellant has completed a request for crisis supplement for clothing, there is no evidence that she needs clothing and no evidence that the ministry guided or attempted to guide this appellant to meet her need for dental care via other ministerial funding options.

The panel finds, that since there is a lack of evidence on the chain of events and that there are errors made on this file with regards to the appellant's need for dental services, that it was unreasonable for the ministry to allow it get to this point or make a decision on a matter that clearly is not at issue.

For these reasons cited above, the panel finds that the ministry reconsideration decision which denied the appellant a crisis supplement for clothing was not supported by the evidence it had before it and was not a reasonable application of the application legislation.

### **Imminent Danger**

Section 59 (1)(b) of the EAR states that the minister may provide a crisis supplement to or for a family unit that is eligible for income assistance or hardship if failure to meet the need or obtain the item will result in imminent danger to the physical health of the applicant.

In its reconsideration decision, the ministry noted that the appellant has not demonstrated that she faces imminent danger to her physical health without a crisis supplement for clothing and stated "it is reasonable that your existing clothing is sufficient to meet you immediate needs".

For these reasons cited above, the panel finds that the ministry reconsideration decision which denied the appellant a crisis supplement for clothing was not supported by the evidence it had before it and was not a reasonable application of the application legislation.

### **Conclusion**

The panel therefore finds that the ministry's decision to deny the appellant's request for a crisis supplement for clothing was not a reasonable application of the legislation and was not supported by the evidence. The panel rescinds the ministry's reconsideration decision. The appellant is successful at appeal.

APPEAL NUMBER

**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

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/09/18

PRINT NAME

Jennifer Armstrong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/18

PRINT NAME

David Handelman

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/18