

APPEAL NUMBER  
2021-00012

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

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated Jan 8, 2021 which denied the appellant a crisis supplement for winter clothing by reason that the appellant’s request for winter clothing was not unexpected as required by section 57(1)(a) Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

### **PART D – RELEVANT LEGISLATION**

Sections 22(1)(4) and 22(3)(b) of the Employment and Assistance Act (“EAA”)  
Section 57 Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

## **PART E – SUMMARY OF FACTS**

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the EAA.

The evidence before the Ministry at reconsideration was:

- The appellant is a single person with persons with disabilities designation receiving disability assistance
- On December 22, 2020 the appellant requested a crisis supplement for winter clothing because they had no boots, coat, or warm clothes.
- The appellant stated that they started gaining weight a year ago and now can't fit into their winter clothing.
- In the request for reconsideration the appellant writes:
  - o They did not expect their winter clothes not to fit this year;
  - o They don't have winter footwear and need a pair of boots to keep their feet dry;
  - o They have never asked for anything extra before;
  - o They only have light clothing and nothing warm;
  - o They need a warm coat; and
  - o They are autoimmune compromised and can't look for free clothing due to Covid-19.

The Notice of appeal which is written by the appellant's mother states: "I am helping my daughter complete this. She has lost and gained a lot of weight this past year. She doesn't have the capacity to understand that this happened, and she needs winter things desperately and she had no idea that her old things wouldn't fit."

Attached to the notice of appeal is an email dated January 13, 2021 which is also from the appellant's mother. It states "my daughter does not have the mental capacity to understand when her weight had fluctuated nor the ability to plan or understand that she would need new winter things. She has hardly enough money to afford her prescriptions, rent, food and cannot afford any winter clothes or a coat or boots. This means she cannot leave the house in the cold rain and bad weather. Due to covid and her autoimmune disease she cannot access free clothing services. She is nonverbal and can't verbally express herself which makes the situation even more difficult. I am her mom and cannot afford to buy her these things either unfortunately. Please consider this decision as we have no other options."

The panel determined the additional documentary evidence, provided by the appellant's mother and concerning the appellant's capacity to understand her weight gain and the affect it would have on her clothes fitting was admissible pursuant to s.22(4) of the EAA as the panel considers it reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

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

The issue on appeal is whether the Ministry's decision to deny the appellant a crisis supplement for winter clothing by reason that the appellant's request for winter clothing was not unexpected as required by section 57(1)(a) Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR") is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant?

The legislation provides:

### **EAA**

#### **Panels of the tribunal to conduct appeals**

**22** (1) If a person commences an appeal in accordance with section 21 (1), the chair must appoint a panel consisting of up to 3 members of the tribunal to hear and determine the appeal.

(2) If a panel consists of more than one member, the chair must designate a chair of the panel from among the members of the panel, and if a panel consists of one member, that member is the chair of the panel.

(3) A panel must conduct a hearing into the decision being appealed within the prescribed period either

(a) orally, or

(b) with the consent of the parties, in writing.

(4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

(5) [Repealed 2019-36-95.]

(6) The panel chair is responsible for deciding any question of practice or procedure that arises during a hearing and is not provided for in the regulations or in the practices and procedures of the chair under section 20 (2) (a) [*powers and duties of the chair*].

### **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](#).

The panel finds:

S. 57 EAPWDR gives the Ministry the ability to grant a crisis supplement for a person who meets the requirements set out in s.57(1)(a) and s.57(1)(b) EAPWDR.

S.57(1)(a) EAPWDR specifies that the crisis supplement must be to meet an unexpected expense or obtain an item unexpectedly needed. S.57(1)(a) EAPWDR also specifies that the appellant must show that they are unable to meet the expense or obtain the item because there are no resources available to the family unit. S.57(1)(b) EAPWDR requires the appellant to show that a failure to obtain the item will result in imminent danger to the physical health of any person in the family unit, or the removal of a child under the Child, Family and Community Service Act.

The Ministry found that the appellant met one criteria of s.57(1)(a) EAPWDR being that the appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit. The Ministry did not provide reasons for this decision. The panel finds this decision of the Ministry to be reasonable given that the appellant is not able to attend at local thrift shops due to their autoimmune disease, Covid 19 and receives little income through PWD income assistance.

The Ministry also determined that the appellant met the test in s.57(1)(b) EAR, being that a failure to obtain the item will result in imminent danger to the physical health of any person in the family unit, or the removal of a child under the Child, Family and Community Service Act. The Ministry did not provide reasons for this decision. The panel finds this decision of the Ministry to be reasonable given imminent danger to physical health can be a result when not properly clothed in the winter.

With respect to the last requirement in s.57(1)(a) EAPWDR, the Ministry determined that because the appellant was gaining weight over the course of one year, they should have realized that the ability to fit into their clothes would be impacted and the requirement for a new coat is therefore not unexpected. The Ministry also found that the requirement for new boots was not unexpected to this appellant. The appellant's mother states that the appellant is unable to understand that gaining weight will cause their clothes not to fit. The panel finds that although the appellant may struggle to understand the issue of their weight gain, there is insufficient evidence about the details of the appellant's weight gain to support the conclusion that the appellant's need for a winter coat and boots was unexpected. Details of when exactly the weight gain occurred, the amount of weight gained, and if the appellant's winter coat stopped fitting last winter (2020) or this winter (2021) would have been helpful to determine if this appellant's clothes not fitting was in fact unexpected. There was some evidence about weight loss by the appellant, but no additional information provided about when that weight loss occurred. There was no evidence that the appellant's boots stopped fitting due to weight gain. The appellant provided evidence that they had no winter footwear but did not give information about if this was unexpected to them. For the reasons above, the panel finds that it was reasonable for the Ministry to determine that the need for a new coat and new boots was not unexpected to this appellant.

For these reasons, the panel finds the Ministry's decision was reasonably supported by the evidence and confirms the decision.

<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 checked="" 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>Meghan Wallace</b>	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) <b>February 12, 2021</b>

PRINT NAME <b>Kevin Ash</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>February 12, 2021</b>
PRINT NAME <b>Linda Smerychynski</b>	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) <b>February 12, 2021</b>