

**PART C – DECISION UNDER APPEAL**

Under appeal is the February 12, 2021 decision of the Ministry of Social Development and Poverty Reduction (the ministry) that the appellant is not eligible for a crisis supplement for clothing. The ministry was satisfied that the appellant met two of three requirements of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

- there was an unexpected expense that prevented the appellant from purchasing new clothing, and
- there are no resources available to purchase clothing.

However, the ministry concluded that the third requirement was not met:

- failure to provide the crisis supplement will result in an imminent danger to the physical health of any person in the family unit.

Additionally, the ministry denied the request under section 57(4)(c) because the appellant had received the maximum \$400 allowed for a crisis supplement for clothing for a family unit in the 12 calendar months preceding this application for a crisis supplement for clothing.

**PART D – RELEVANT LEGISLATION**

EAPWDR, section 57

**PART E – SUMMARY OF FACTS**

The appeal was conducted as a written hearing.

**Background Information**

The appellant is a person with disabilities who receives monthly disability assistance for a family unit that includes dependent children.

- March 6, 2020, the appellant requested a crisis supplement for clothing because the appellant's children had outgrown their clothing. A crisis supplement in the amount of \$400 was provided.
- February 1, 2021, the appellant requested a crisis supplement for clothing for the appellant's children because they had outgrown all of their clothing and did not have adequate clothing for school. The appellant stated that all resources had been exhausted. The request was denied.
- February 2, 2021, the appellant submitted a Request for Reconsideration. The appellant reported having substantial increases in utility and grocery bills since the children have been attending school from home. "I would not ask for the supplement if I did not know that I was in dire straits to get them the appropriate clothes for the coming term." Estimates for the costs of moving were also provided as "confirmation of monies spent to that end."
- February 12, 2021, the ministry issued the reconsideration decision that is the subject of this appeal.

**Information provided on appeal and admissibility**

- February 12, 2021 Notice of Appeal. The appellant writes that due to the ages of the children, the sizes of clothing worn and the condition of some of the clothing, it is not possible for the clothes to be passed down. If not appropriately clothed for this winter season, there will be an imminent threat that the children can be removed "with the assumption of lack of care and attention to their health and safety" due to the cold weather if the teachers or staff question or complain. The March 2020 \$400 crisis supplement bought the exact clothes and shoes needed at that time.
- February 23, 2021, 5-page appeal submission from the appellant in which the appellant writes that the reasons for requesting the crisis supplement initially were not fully documented by the ministry, but were merely an abbreviation. Additional information provided by the appellant, some of which addresses the legislative requirements that the ministry found were met, includes:
  - If the children are not appropriately clothed for winter or school, there will be an

- imminent threat that they can be removed from the appellant's care again, due to lack of suitable wear or attendance because they are kept home due to sniffles and colds. The children are still kept home because of the lack of clothes.
- Because the clothes are too small and do not protect them from the cold as they should, when they do out and do get sniffles or colds, the appellant has to quickly remedy with home remedies because the over-the-counter medications can be costly. Their doctor's office has been closed since March 2020 due to Covid-19, leaving the children to either self-medicate or go to public health, putting them at even greater risk of exposure to others. By then, the children will be over medicated and under-clothed, while clothing could have alleviated part of the health issues that could ultimately be caused and have been caused so far.
  - When requesting this crisis supplement, on February 1, 2021, the appellant was not aware of being "short of the time to place a request for the emergency supplement" as the request was based on emergent need not an annual date.
- March 3, 2021, ministry submission for the written hearing indicating that the ministry is relying on its reconsideration summary provided in the Record of Ministry decision.

The panel admitted the additional information provided by the appellant as evidence required for the full and fair disclosure of all matters related to the appeal under section 22(4) of the *Employment and Assistance Act*.

**PART F – REASONS FOR PANEL DECISION**

**Issue on Appeal**

The issue on appeal is whether the ministry's decision that the appellant is not eligible for a crisis supplement for clothing is reasonably supported by the evidence or a reasonable application of the legislation. Specifically, was the ministry reasonable when concluding that the an imminent threat to the physical health of a member of the family unit was not established and that the maximum amount allowed under the legislation for a crisis supplement within the last 12 calendar months had been provided?

**Panel Decision**

**Positions of the Parties**

As expressed in the appellant's reconsideration and appeal submissions, the appellant argues that:

- (1) imminent danger to physical health is established because lack of adequate clothing has and will continue to result in colds and sniffles;
- (2) there will be an imminent threat of the children being removed from the appellant's care again due to the possible assumption of lack of care and attention to the children's health and safety due to exposure to cold weather and if school staff question the lack of suitable wear or attendance; and
- (3) the request for the crisis supplement is based on emergent need, not an annual date in the legislation.

The ministry's position is that the appellant is not eligible for a crisis supplement for clothing because:

- (1) there is limited information to suggest an urgent threat to health and that that the current clothing is unwearable or could not be shared amongst the children for sizing purposes, it is not satisfied that there is an imminent danger to the physical health of any person in the family unit; and
- (2) the appellant has already received the maximum amount for a crisis supplement for clothing in March 2020, which is the lesser of either \$100 per person in the family unit or \$400 for a family unit in a 12-month calendar period.

**Panel Analysis**

To be eligible for a crisis supplement, all three requirements of section 57(1) must be met and, for a crisis supplement for clothing, the amount that may be provided must not exceed the amount set out in section 57(4)(c).

In the appellant's case, the ministry found that two of the requirements of section 57(1) were met - unforeseen increases in utility and grocery bills due to the Covid-19 pandemic, were unexpected expenses that prevented the purchase of new clothing and the appellant has no available resources to meet the need, having used all resources to pay the higher bills.

The third requirement is that the minister considers that failure to provide the crisis supplement will result in either (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 although the appellant describes sniffles and colds that the appellant's children have experienced and/or will experience, and reasons why clothing cannot be shared amongst the children, the ministry reasonably concluded that the information is insufficient to establish imminent threat to physical health. The panel considers it reasonable that some supporting evidence be provided to satisfy the ministry that imminent threat to physical health exists. Respecting the removal of a child, a circumstance that was neither raised by the appellant nor addressed by the ministry at reconsideration, the panel also finds that insufficient information is provided for the ministry to consider that failure to provide the crisis supplement "will result" in removal of a child. The appellant's submissions suggest that a child or children have been removed from the appellant's care in the past, but do not indicate that staff from the children's schools or any other persons have raised any concerns about the children's care, or that any action towards the removal of a child or children has occurred.

Respecting the limit on the amount that may be provided for a crisis supplement for clothing, section 57(4)(c) states that no more than \$400 can be provided for a family unit in the 12 calendar month period preceding an application for a clothing crisis supplement, even if a family unit comprises more than four persons. The appellant does not dispute this but states that the current request for a clothing crisis supplement is based on urgent need, not the passing of a 12-month period. The panel finds that the legislation setting the maximum amount for a crisis supplement in a 12 calendar month period does not allow for consideration of factors relating to the need. Therefore, because the appellant had received the maximum \$400 for a clothing crisis supplement in March 2020, the ministry reasonably determined that the appellant could not receive a crisis supplement for clothing in February 2021, even if all of the requirements of section 57(1) had been met.

### Conclusion

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement for clothing because all of the requirements of section 57(1) of the EAPWDR were not met and because the maximum amount for a crisis supplement for clothing in a 12 calendar month period under section 57(4) had already been provided was reasonably supported by the evidence. The ministry's decision is confirmed and the appellant is not successful on appeal.

**Relevant Legislation**

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

(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, and
  - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

APPEAL NUMBER  
2021-00037

**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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/03/22

PRINT NAME

Bob Fenske

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/03/22

PRINT NAME

Anne Richmond

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/03/22