

Part C - Decision Under Appeal

The decision under appeal is the decision of the Ministry of Social Development and Poverty Reduction (the ministry) that the appellant is not eligible for a crisis supplement for winter footwear. The ministry determined that the appellant met the requirements of section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). However, the ministry determined that the appellant had already received the maximum amount under section 57(4) that may be provided for a crisis supplement for clothing in a 12-calendar month period.

Part D - Relevant Legislation

EAPWDR, section 57

Part E – Summary of Facts

The appellant is a sole recipient of disability assistance. On May 5, 2022, the appellant received a crisis supplement for clothing in the amount of \$100.

On November 2, 2022, the appellant submitted a request to the ministry for a crisis supplement for winter footwear. In his request, the appellant explained that the footwear was urgently needed due to recent snowfall and the condition of his heavily swollen left foot caused by deep vein thrombosis/blood clot. The appellant indicated that he was unable to obtain footwear at a number of community resources, noting that his shoe size for the swollen foot is now 15+.

The ministry denied the appellant's request on November 2, 2022 on the basis that the appellant had received the maximum amount allowed for a crisis supplement for clothing. On November 2, 2022, the appellant requested the ministry reconsider its decision. In his reconsideration submission, the appellant stated that his [ministry] file indicates longstanding difficulty purchasing affordable footwear as his left foot can vary 3-4 sizes in as little as 6 months. The appellant adds that it is difficult to predict shoes to match unseasonable weather changes, that shoes sized 14 or 15 are hard to find and, if available, usually cost more than he can afford.

At reconsideration, the ministry again denied the appellant's request. The appellant appealed the reconsideration decision to the Tribunal. The appellant's November 16, 2022 Notice of Appeal did not include evidence or argument.

The appellant did not join the teleconference at the scheduled hearing time. The Tribunal office attempted to contact the appellant and the panel waited for approximately 15-20 minutes. The panel had confirmation that the appellant had been notified of the hearing, therefore, the hearing proceeded without the appellant in accordance with section 86(b) of the Employment and Assistance Regulation.

At the hearing, the ministry reviewed the reconsideration decision and stated that the ministry has no discretion respecting the maximum amount that may be provided for a crisis supplement for clothing. The ministry added that the appellant could contact the ministry about the possibility of receiving a health supplement for the footwear, though the ministry representative was not familiar with what could be covered as a health supplement.

Part F – Reasons for Panel Decision**Issue Under Appeal**

The issue under appeal is whether the ministry's decision is reasonably supported by the evidence or is a reasonable application of the applicable legislation. That is, was the ministry reasonable to determine that the appellant was not eligible for a crisis supplement for winter footwear because the appellant had already received the maximum amount of funding for a clothing crisis supplement in a 12-calendar month period?

Positions of the Parties

The appellant's position, based on his written submissions, is that he needs new footwear due to unpredictable winter weather conditions and swelling of his left foot that causes his footwear size to vary 3-4 sizes. The appellant argues that regardless of the "allowable" ceiling for funding, his condition will not change or improve and that his request should be considered based on the present level of urgency.

The ministry's position is that although the requirements of section 57(1) of the EAPWDR are met, the appellant is not eligible because the limit for funding under section 57(4) has been reached. Specifically, because a crisis supplement for clothing is limited to \$100 in a 12-month calendar period and the appellant received the maximum \$100 funding in May 2022, he is not eligible for a clothing crisis supplement in November 2022.

Panel Decision

Eligibility requirements for a crisis supplement are set out in Section 57(1) of the EAPWDR. The ministry accepts that the appellant's request for a crisis supplement for winter footwear meets the requirements of section 57(1). However, in addition to meeting the requirements of section 57(1), crisis supplement funding is subject to limitations described in section 57(4) for crisis supplements for food, shelter, and clothing. The limit for clothing is \$100 for each person in a family unit in the 12 calendar months prior to the current request. In the appellant's case, the evidence, which the appellant does not dispute, is that the appellant received a crisis supplement for clothing in May 2022 in the amount of \$100. As 12 calendar months have not passed since the appellant received the maximum amount of crisis supplement funding available for clothing, the panel finds that the ministry has reasonably applied the legislation in deciding that the appellant is not eligible for a crisis supplement for winter footwear. The panel acknowledges the appellant's arguments respecting the need for the footwear due to a medical condition but finds that

the crisis supplement legislation does not give the ministry, or the panel, discretion regarding the maximum limits.

The panel confirms the ministry's decision. The appeal is not successful.

Legislation

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.....

(4) A crisis supplement 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.

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

Part H – Signatures

Print Name

Jane Nielsen

Signature of Chair

Date (Year/Month/Day)

2022/12/07

Print Name

Cherri Fitzsimmons

Signature of Member

Date (Year/Month/Day)

2022/12/07

Print Name

Glenn Prior

Signature of Member

Date (Year/Month/Day)

2022/12/07