

### PART C – Decision under Appeal

The decision being appealed is the Ministry's May 14, 2012 reconsideration decision denying the Appellant a crisis supplement to pay for overdue hydro bills because the Ministry determined that the Appellant did not meet all of the criteria for a crisis supplement in section 59 of the Employment and Assistance Regulation, and specifically that the Appellant did not establish that:

1. She needed the supplement to meet an unexpected expense or to obtain an item unexpectedly needed;
2. She had no resources available to her; and,
3. The failure to provide the supplement for the overdue hydro bills would result in imminent danger to her physical health.

### PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 59.

## PART E – Summary of Facts

The Ministry did not appear at the hearing. The Panel confirmed that the Ministry was notified of the hearing and then proceeded with the hearing under section 86(b) of the EAR.

For its reconsideration decision the Ministry had the following evidence:

1. Information from the Ministry's files that the Appellant:

- Receives income assistance as a single parent with two dependent children. She receives \$660 for shelter and \$672.08 for support for a total of \$1332.08.
- Requested a crisis supplement on April 27, 2012 for outstanding hydro bills because she received a final notice from hydro on March 23, 2012.
- Told the Ministry that she was very confused because she had not been able to purchase medication because she could not afford it.
- Thought she owed \$1200 for hydro.
- Owed hydro \$1649 with \$1204.43 of that as the past due amount. To avoid disconnection the Appellant had to pay \$1204.43 and the remainder of \$445 was due on May 17, 2012 as the regular bill amount.

2. Ministry records regarding its contacts with a hydro company agent who apparently advised the Ministry that the Appellant spoke with a hydro agent on February 18, 2012 about her bill and that she was very aware that she had a large bill to pay. The agent apparently stated that the Appellant had not made any attempts to pay her outstanding bill.

3. Appellant's reconsideration request with a written submission from her advocate with attachments described below.

In the written submission for the reconsideration, the advocate wrote that the Appellant received notices from hydro on March 23, 2012 and May 7, 2012 stating that she must pay the entire sum owing or face disconnection. The advocate indicated that she assisted the Appellant by calling the hydro company to try to make payment arrangements. She was told that the minimum that would be accepted is \$1204.43 to avoid disconnection and that the Appellant had previously made payment arrangements that she failed to keep. The advocate also stated that the Appellant failed to tell the Ministry that she had to purchase another used vehicle when the one she was driving became too unsafe to drive. A mechanic found the Appellant a safer vehicle but that unexpected need made it impossible for the Appellant to cover the large hydro bill. The advocate also wrote that the Appellant is suffering very precarious mental health issues which were also unexpected for her. The Appellant felt that she had been doing well but the stress of possibly losing her hydro service while caring for her children triggered her problems. The advocate attached the following documents:

- Hydro Bill with billing date of April 25, 2012 indicating a previous balance due of \$796.43 plus late payment charges of \$7.96, electric charges for February 23 to April 25, 2012 for about \$446, and a security deposit charge for \$408; total owing was \$1649.43.
- Final notice of disconnection from the hydro company dated March 23, 2012 indicating a total amount due of \$1204.43, an amount due on March 23, 2012 of \$530.90, and a security deposit request of \$408.
- A statement dated May 9, 2012 written for the Appellant about her vehicle needs.

In that statement the Appellant indicated that the hydro complication is now a crisis situation. She explained that she was unable to pay 3 hydro payments of \$300, \$250 and \$250 because she purchased another vehicle unexpectedly. Her other one was unsafe and hazardous as determined

by a mechanic. The Appellant also indicated that due to health and disability reasons she cannot be without a vehicle. The mechanic diligently worked on and replaced everything he could, but everything kept blowing and she couldn't keep repairing the vehicle. The mechanic helped her get a used, safe vehicle. The Appellant stated that this was how she found herself in a "crisis" with no other support and limited finances.

At the hearing the Appellant described her attempts to keep up with her hydro bills and provided a history of payments since about May 2011 supported by copies of her bills. She had been living in another house and had been on hydro equal payment plan of \$250 a month so that each year she received a credit from the hydro company. One year she received a \$345.52 credit as her annual adjustment. Then she moved to a mobile home park where the housing was cheaper and she expected her other expenses to be lower; however, her hydro bills increased significantly this past winter. That big increase was an unexpected expense. She said that she made payments on her bill including two in February 2012 for \$475 and for \$200, but she still fell behind. She also stated that she was very surprised by the unexpected request for a security deposit of about \$400.

The Appellant described several serious medical conditions for which she needs medications. She had a brain injury and also suffers from emotional distress and stress. She said that she had been on a prescription drug payment plan, but when her doctor switched to another practice he did not complete the necessary document transfers for her. Therefore she had to pay for her medications herself. The Appellant submitted copies of two prescription bills: one dated January 30, 2012 showing she did not pay the cost of \$180.94 and one dated April 2, 2012 showing that she paid \$181.45 for the same drugs. Because of her financial situation the Appellant said she has gone without some medications, adding to her stress and medical disabilities. The Appellant said she has had no hydro for a month, and the damp and cold have worsened her medical conditions.

The Appellant said that she has been trying to keep her job, working two shifts to help pay her bills, but in February, March and April she did not work as much. She also needs a car to get to work and transport her children. In late April 2012 a mechanic she uses helped her buy another car for \$750. She said that her other one was no longer safe to drive according to the mechanic.

The Appellant's advocate submitted copies of hydro bills from May 9, 2011 to February 23, 2012 to demonstrate the Appellant's payment history and to show the unexpected increase in her hydro costs. For example the December 23, 2011 bill showed electric charges of \$452.48 for October 26 to December 23, 2011. The February 23, 2012 bill showed electric charges of about \$545 for December 2011 to February 22, 2012. That bill also showed two payments in February totaling \$675. The Appellant submitted that these costs were much more than the \$115 to \$237 charges for two months that she used to pay. The Appellant indicated that the hydro company had informed her that usage costs would be much lower at the mobile home park. She also said that she contacted the hydro company to have her meter checked. But she was told that all the meters in the mobile home park would have to be checked and all users would be charged for that assessment, a cost she could not pay.

The Panel finds that the Appellant's oral testimony and the copies of the hydro and prescription bills relate to information about the Appellant's financial situation that was before the Ministry at reconsideration. Therefore the Panel admits the testimony and the documents as being in support of

evidence that was before the Ministry when it made its reconsideration decision pursuant to section 22(4) of the Employment and Assistance Act.

The Appellant's advocate also submitted oral and written arguments on behalf of the Appellant. These are set out in Part F – Reasons for the Panel Decision.

Since the Ministry did not appear at the hearing, the Panel will consider the Ministry's reconsideration decision to be its submissions for this hearing.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a crisis supplement for overdue hydro bills because she did not meet all of the criteria in section 59 of the EAR, and specifically that the Appellant did not establish that:

1. She needed the supplement to meet an unexpected expense or to obtain an item unexpectedly needed;
2. She had no resources available to her; and
3. The failure to provide the supplement for the overdue hydro bills would result in imminent danger to her physical health.

Section 59 of the EAR sets out the requirements for a crisis supplement as follows:

59(1) the minister may provide a crisis supplement to or for a family unit that is eligible for income 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*.

In its reconsideration decision the Ministry wrote that it reviewed each of the criteria in section 59 and considered all of the information in its records as well as the information submitted by the Appellant with her request for reconsideration and her supporting documents. It determined that the Appellant did not meet all of the criteria for a crisis supplement based on its consideration of each requirement in section 59(1).

With respect to the requirement that the Appellant needs the supplement to meet an unexpected expense or to obtain an item unexpectedly needed, the Ministry noted that essential utility costs are not unexpected expenses. The Appellant is expected to pay for the utilities she uses. The Ministry considered the Appellant's explanation about needing to purchase another second hand car and using funds she had for that purpose, and then being unable to pay for the utilities used. The Ministry wrote that it was sympathetic to the Appellant's situation; however, it also wrote that one is expected to pay for the utility services used. The Ministry noted that the Appellant chose not to pay the hydro bills, so it was expected that her bill would be in arrears and that consequently a disconnection notice would be issued. Therefore, based on the information it had the Ministry determined that the Appellant did not establish that her request for the crisis supplement was to meet an unexpected expense or an item unexpectedly needed, and this criterion was not met.

The Appellant argued that the Ministry should not have relied on the accuracy of a statement from a hydro agent about the Appellant being aware that she had a large bill to pay. The Appellant submitted that this was a third party statement that was not verified. There was no ability on the part of the hydro agent to determine what the Appellant did or did not understand in a conversation. The Appellant argued that the hydro agent was unaware of the Appellant's mental status, and her impaired cognitive ability and memory. Therefore the Appellant submitted that in the interests of natural justice the Ministry should not have relied on questionable statements from third parties to deny benefits.

The Appellant also submitted that the Ministry did not consider the exceedingly high cost of hydro in January to February 2012, and that this high cost was totally unexpected for her. She further argued that she had to buy another car; it was not a choice between paying the hydro bill and buying the car. The vehicle purchase was essential and was unexpected. She also did not expect to have to pay for medication herself. The Appellant submitted that all of these events were entirely "unexpected". The criterion for the crisis supplement was met, but the Ministry chose not to give her the supplement.

The Panel finds that based on the evidence the Ministry reasonably determined that the Appellant's hydro bills are a regularly occurring utility cost not unexpected bills, and that the Appellant failed to pay all of the amounts owing before she received the disconnection notice. However, the Panel also notes that the Ministry did not consider the sudden large spike in the amount of the Appellant's hydro charges in January/February 2012 or the additional unexpected security deposit cost imposed by the hydro company. It also did not consider that the Appellant made two payments in February 2012. Therefore the Panel finds that the Ministry unreasonably did not take into account all of the circumstances affecting the Appellant's hydro costs and unreasonably failed to consider the Appellant's sudden increase in total hydro costs as unexpected expenses.

The Ministry also reviewed the information provided regarding the second criterion to be met; that is, that the Appellant had no resources available to pay the outstanding hydro bill. It noted that the Appellant did not pay installments arranged by the hydro company. The Ministry also noted that the Appellant had been continuously receiving monthly income assistance of \$1332.08 and that income assistance allowances are intended to be used for daily living expenses such as utility bills. The Ministry found that the Appellant chose not to make regular payments for the use of hydro, resulting in the outstanding balance and disconnection notice. Therefore it determined that the Appellant did not meet this criterion.

The Appellant's position is that she has no resources to pay the outstanding hydro bill of over \$1,200 so that her power can be reconnected. She receives a limited income and had unexpectedly high hydro costs. She also had to unexpectedly buy a car and pay for medications out of her limited resources. The Appellant argued that she is still without power and has been in the dark with no heat or lights for a month. She submitted that the Ministry is failing to help her when she is in need.

The Panel notes that the Ministry reasonably determined that the Appellant's regular income assistance is intended to be used for daily living expenses such as utility bills. Also the Ministry reviewed the outstanding hydro charges and noted that the total overdue amount did not arise out of one event, but because the Appellant did not make regular payments on her hydro bills. The Panel also notes that the Appellant did not provide any information about how her monthly income is spent. She only provided evidence of the one-time car expenditure and the medication bill. Therefore the Panel finds that the Ministry reasonably concluded that the Appellant is receiving regular income assistance payments, some of which is intended for her hydro bills, and so she has resources available.

In its review of the requirements in section 59(1)(b)(i), the Ministry cited the *Merriam-Webster* dictionary's definition of "imminent" as "is ready to take place; especially: hanging threateningly over one's head, was in imminent danger of being run over" and also that dictionary's definition of "danger" as "exposure to liability to injury, pain, harm or loss". The Ministry also cited the *Cambridge*

*International Dictionary* definition of "imminent" as "coming or likely to happen very soon; imminent disaster/danger. A strike is imminent" and the definition of "danger" as "the possibility of harm or death to someone".

The Ministry also noted the information from the Appellant that she is experiencing very "precarious mental health issues" and that the stress of possibly losing her hydro service while caring for her children triggered her current state. The Ministry indicated that it was sympathetic to the Appellant's situation; however, it found that the information provided did not indicate that failure to provide her with a crisis supplement to pay her outstanding hydro bill would result in "imminent danger" to her physical health.

The Appellant argued that failure to provide the crisis supplement to pay for reconnecting her power will result in imminent danger to her physical health. She has suicidal ideation from the stress of not having power and from not having the resources to pay that bill. The lack of heat and power is also affecting her physical health. The Appellant submitted that she meets all the requirements in section 59(1) of the EAR. The Ministry has the power to grant her a crisis supplement, but it is not following its mandate to help those most in need by not using this legislation that allows them to do that.

The Panel finds that the Ministry reasonably referred to the ordinary, dictionary definitions of the words "imminent" and "danger". Also, it considered the information provided by the Appellant about her health circumstances. The Panel notes that although the Appellant indicated that she had serious medical conditions aggravated by the lack of heat and power, she did not provide evidence, such as information from a doctor or hospital, of an imminent danger to her health. Therefore the Panel finds that the Ministry reasonably determined that the Appellant did not establish this criterion.

Based on the whole of the evidence the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the Appellant's circumstances. Therefore the Panel confirms that decision.