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PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated July 21, 2012 which denied the appellant's request for a crisis supplement to cover utility costs. The Ministry held that the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met as the ministry found that utility costs are not an unexpected expense, there are alternate resources available to the family unit to pay for utility costs, and there was not sufficient information to establish that failure to meet the expense will result in imminent danger to the physical health of any person in the appellant's family unit.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Section 59

Employment and Assistance Act (EAA), Section 4

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PART E – Summary of Facts

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

1) Print out of online ministry information regarding Crisis Supplements- Authorities and Responsibilities and Essential Utilities Supplement;
2) Print out from online Merriam-Webster dictionary for "unexpected";
3) Statement of Account dated June 13, 2012 from hydro company to a third party, the appellant's room-mate, indicating an amount past due of $1,335.71;
4) Fax dated June 19, 2012 from the hydro company to the advocate stating that as of June 19, 2012 the balance on the subject account was $1,335.71;
5) Fax dated June 19, 2012 from the hydro company to the advocate stating that the appellant's spouse added his name to the subject account and will appear on all future invoices and the balance required for reconnection is $1,155.89;
6) Fax dated July 5, 2012 from an advocate to the ministry requesting communication notes from April 2012 to present;
7) Fax dated July 10, 2012 from the ministry to the advocate attaching case notes for the appellant's file; and,
8) Request for Reconsideration- Reasons, prepared by an advocate on behalf of the appellant.

At the hearing, the appellant presented an undated letter from her advocate regarding discussions between the advocate and the hydro company on June 19, 2012. The ministry did not object to the admissibility of this document. The panel reviewed the letter and admitted it as relating to the interactions with the hydro company and being in support of the information before the ministry on reconsideration, pursuant to Section 22(4) of the Employment and Assistance Act (EAA). The appellant advised that the advocate was not available to attend the hearing and she wished to proceed with the hearing in any event. The hearing was recessed for a period of time to allow the appellant to discuss the matter with her husband and she subsequently advised that, after considering the possibility of requesting an adjournment, she wished to proceed with the hearing and to represent herself, with her husband's support.

At the hearing, the appellant stated that she and her husband and two children and her mother-in-law ("room-mate") moved into their current residence on September 1, 2011 and that, from the beginning, only her room-mate's name was put on the hydro account. The appellant stated her room-mate, who is also in receipt of income assistance, said she would take care of hydro, that the ministry would pay the hydro from her assistance and the appellant and her husband would pay for the groceries and other household needs since they considered themselves as all part of one family unit. The appellant stated that her room-mate, who lives in the bachelor suite in the basement of the house, had gone to the ministry to set up a payment arrangement with the hydro company and her room-mate told her that the ministry had even called her to confirm that everything had been arranged. The appellant stated that she was not concerned that she did not know how much the hydro bills were each month or that she and her husband would be paying more for groceries since her room-mate had said it was "completely fine" and they had not had problems before. The appellant stated that either her room-mate or the ministry would receive the hydro bills, that she never received a hydro bill so she did not know that payments were not being made.

The appellant stated that then one morning in June 2012 her hydro was cut off and she discovered that there had been no payments for hydro for 3 months. The appellant stated that she went to the ministry with her room-mate and the ministry said that no payments were set up. The appellant said she told the ministry she would do anything to get the power back on and asked if she could apply for a crisis supplement and was told that she could only do that if the name of someone from her family unit was on the account. The appellant stated that she put her husband's name on the account but then the ministry said after that they did not tell her to do that. The appellant stated that she is not sure if her husband's name is still on the account since he wanted it off so that he is not responsible for the debt. The appellant stated that she has two young children and it was very difficult because they went approximately 3 1/2 weeks without hydro. The appellant stated that their advocate has mostly managed things since then, that they ended up using $400 from their shelter allowance and paid that to the hydro company to get the power back on since the advocate said there was a

risk their children could be taken from them otherwise. The appellant stated that now they have rent that is owing and there is still amounts owing for hydro. The appellant stated that the advocate advised the hydro company will wait until the results of the Tribunal decision before taking further action.

In response to a question, the appellant stated that she only contacted the hydro company after the hydro was disconnected, in June 2012, because she thought everything was fine before that. In response to a question about the impact of the loss of hydro, the appellant stated that it was difficult as they had to get extension cords and run power from her neighbour's house who let them plug in so they could have lights. The appellant stated that she had done a big grocery shop prior to the power being cut off and they lost some of their food, that she could not cook anything so they had to eat foods that did not require heating, and the advocate brought a basket of supplies which included candles for them to use.

In the Notice of Appeal, the appellant states that the definition of "unexpected" is narrowly interpreted and the family has never requested a crisis grant. In the Request for Reconsideration, reference is made to the ministry policy regarding a crisis supplement: that it is intended to aid the client in an emergency when all other resources have been exhausted, that it must not be provided to support an ongoing situation or as a way to provide assistance that is prohibited by other regulatory direction. A crisis supplement may be provided for essential utilities if recipients have reached their monthly annual limit for crisis supplements, exhausted all resources, and do not have the ability to maintain essential utilities for their home when served with a disconnection notice or faced with the inability to re-establish essential utilities; essential utilities include fuel for heating, fuel for cooking meals, water, and hydro. In the Request, the advocate reports that the appellant went with her room-mate to the ministry office to discuss why their hydro had been cut off "...due to this matter was being taken care of for the past 3 months." The room-mate explained that she understood the ministry had taken care of this matter on April 12, 2012 when they created a billing for her for hydro. The appellant states that she explained to the ministry that, to the best of her knowledge, "...everything was taken care of." The appellant states she requested that she be "allowed to take money from [her] side" to get the hydro back on since she had never asked for a crisis grant and her request was denied. The appellant states that the ministry advised that she would need to put either her name or her husband's name on the hydro account before they could help her.

The Request for Reconsideration also sets out the following interactions with the hydro company: on February 17, 2012 the ministry called to confirm that payment in the amount of $519.00 for a security deposit would be made by the ministry on behalf of the customer (the appellant's room-mate) and payment was received on February 23, 2012. On April 19, 2012, the ministry called to inquire about the customer's balance, was advised the account is past due $726.00 with a disconnection notice sent and a deferral was created until April 24, 2012. On June 14, 2012, the ministry called to inquire about the balance needed to re-connect and was advised that the past due balance of $1,019.90 plus a reconnection fee of $125 plus tax was needed and the ministry said they would call back. In the additional letter from the advocate, she states that she communicated regularly with the hydro company regarding connection and services in order to assist the appellant and her family. The advocate states that on June 19, 2012 she had a conversation with a supervisor from the company about requesting release of communication notes and he stated a formal application must be made to get access to the records, that the process was completed in this case and the notes from conversations are included, as noted above. The advocate also states that the supervisor told her that when the ministry contacts the hydro company it is to set up payment plans by the ministry and, based on the notes, it appeared as though the ministry was contacting them to set up payments and a request for extension was made by the ministry, however payment was never received.

The advocate states, in the Request for Reconsideration, that the appellant added her husband's name to the hydro account, as the ministry had instructed, so that her family unit owed the debt. The advocate states that the ministry did not communicate to the appellant's family unit that there was a request on April 19, 2012 for deferral of payment of the hydro account. The advocate states that the appellant's family unit understood that the ministry had "approved the debt" but the debt was never approved by the ministry and, therefore, the hydro

was disconnected months later, in June 2012. The advocate sets out the definition , from Webster's online dictionary, for "unexpected" as "not expected" or "unforeseen." The advocate states that the appellant did not receive the disconnection notices. The advocate states that the appellant took the disconnection notice to the ministry in April to get assistance with paying her hydro, and the appellant clarified at the hearing that it was her room-mate who took the disconnection notice to the ministry, not her. The advocate states that the appellant has two young children and without hydro the family unit experiences imminent danger to their family unit or are at risk of having their children removed as, without power, food cannot be cooked and the temperature in the home is not livable. The advocate states that the appellant is not a sophisticated person and her mental health conditions further limit her. At the hearing, the appellant clarified that since the whole process broke down and she did not know what had happened, the mental health conditions referred to are the impact that stress of these events have had on her.

The advocate states, in the Request for Reconsideration, that the appellant did not receive any contact from the ministry in April stating that she would have to make payment on her own or that she was denied a crisis grant. The advocate states that the appellant was lead to believe that the outstanding bill had been resolved, that the ministry had paid it in April, and it was only when the hydro was disconnected and the appellant approached the ministry in June that she understood that her bill had not been paid.

The ministry's evidence is that on June 14, 2012 the appellant attended at the ministry office with her room-mate/ mother-in-law to request a crisis supplement for utilities. The hydro had been disconnected that morning and the appellant stated that no hydro bills were ever received since the account was opened and the appellant assumed the ministry was taking care of the hydro expenses. With the appellant present, the ministry contacted the hydro company and they confirmed that hydro bills were mailed to the residence on March 12 and April 12, 2012 and Notices of Disconnection were mailed to the residence on April 10 and May 16, 2012 and a final warning Notice to Disconnect was mailed to the residence on May 30, 2012. The hydro company contacted the account holder, the appellant's room-mate, by telephone on May 30, 2012 and left a message regarding the final warning of disconnection. It was also confirmed that no payments had been received from the account holder since February 2012, nor have they received any contact from the account holder regarding the outstanding balance. The account balance at this time was $1,335.71 and for reconnection it would cost an additional $140. On June 20, 2012, an advocate contacted the ministry and stated that disconnection of hydro poses danger to the appellant's safety and that of her children. On June 21, 2012, the appellant submitted a letter from the hydro company confirming that the name of the appellant's spouse had been added to the hydro account, that the balance was $1,155.89. On August 20, 2012, the ministry contacted the hydro company to inquire about the appellant's outstanding balance and the ministry was told that the appellant's room-mate is the only name on the account, that the name of the appellant's spouse was not on the account. The ministry contacted the appellant's advocate and the advocate stated that the name of the appellant's spouse was put on the account and then removed shortly after and that the hydro had been reconnected as a payment of $400 had been made on the account.

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PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crisis supplement to cover utility costs, as the requirements of Section 59 of the Employment and Assistance Regulation (EAR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59(1) of the EAR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

Crisis supplement

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*. ...

The appellant's position is that the hydro bill was an unexpected expense because she had an arrangement with her room-mate/ mother-in-law that she would take care of the hydro bills and the appellant and her husband would pay for the household groceries, that her room-mate told her everything was "completely fine" and the ministry was making payments from her assistance. The appellant argues that when the hydro was disconnected on June 14, 2012 and she attended at the ministry with her room-mate, it was the first time she discovered that the hydro bills had not been paid, that it was completely unexpected by her. The appellant argues that she did not receive any bills from the hydro company, that her room-mate or the ministry would have received the bills since the ministry was supposed to be paying them. The appellant argues that she does not know of any other resources available to her to pay the hydro bills, that although they paid $400 from their shelter allowance to have the power re-connected, they are now behind in their rent payments. The appellant argues that it was very difficult without hydro since they had to get extension cords and run power from her neighbour's house who let them plug in so they could have lights, they lost some of their food that needed to be refrigerated, that she could not cook anything so they had to eat foods that did not require heating, and they used candles. The appellant argues that no hydro will mean the removal of her children due to lack of proper living conditions.

The ministry argues that the provisions of Section 59 of the EAR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, including that the supplement is required to meet an unexpected expense, there are no alternate resources available to the family unit to meet the expense, and failure to meet the expense will result in imminent danger to the physical health of any person in the family unit. The ministry argues that utility costs cannot be considered as an unexpected expense, that the hydro company issued hydro bills, disconnection notices and a final disconnection notice. At the hearing, the ministry pointed out that the ministry does not contract directly with hydro, that the residents who use the hydro remain responsible to pay for the hydro and it was their decision to have the utility bill put into one of the resident's name. The ministry argues that although there may have been some miscommunication from the ministry or the hydro company, this does not make monthly utility an item that is unexpectedly needed. The ministry also argues that there are resources available to the appellant to pay for hydro costs as the account is not in the appellant's name but in the name of another resident occupying the suite downstairs. The ministry also points out that the monthly assistance amount is for the purpose of covering shelter costs, including utilities, and that payments have been made on the account since June 13, 2012 including $400 to reconnect the utility. As

well, the ministry points out that the appellant is expected to fully explore alternate resources in the community to pay for the hydro costs as the ministry is the payer of last resort. The ministry argues that the appellant has not provided sufficient information to establish that failure to meet the hydro expense will result in imminent danger to the physical health of any person in her family unit since the appellant has found the resources to re-establish hydro.

The appellant acknowledges that her room-mate/ mother-in-law assumed responsibility for the hydro bill for the entire premises when they moved into their current residence on September 1, 2011, that this was an arrangement between them since, in return, the appellant and her husband would pay for the groceries each month for the entire household. The appellant states that she was surprised to discover, when the hydro was disconnected, that the hydro bills had not been paid for several months because her room-mate had told her that everything was fine and that the bills were being paid by the ministry from her room-mate's assistance. However, the panel finds that the appellant acknowledges that, as tenants of the premises, they would have to ensure that the regular hydro accounts were paid in order to be able to use hydro; the appellant states that she believed she made arrangements with her room-mate for her to take care of this. The panel further finds that by choosing not to have her name on the hydro account the appellant willingly took the risk that she would not be able to obtain information about payments made on the account and the ongoing status of the account, that the bills for hydro would be sent to the person named on the account and the information provided to her by her room-mate may not be accurate for whatever reason; the appellant also took the risk that her room-mate may not ensure that payments were made to the hydro company, as required, and that the hydro company may not supply hydro for which they do not receive payment.

The hydro company confirmed that hydro bills were mailed to the appellant's residence on March 12 and April 12, 2012 and Notices of Disconnection were mailed to the residence on April 10 and May 16, 2012 and a final warning Notice to Disconnect was mailed to the residence on May 30, 2012 and they contacted the account holder, the appellant's room-mate, by telephone on May 30, 2012 and left a message regarding the final warning of disconnection. The advocate states that the appellant took the disconnection notice to the ministry in April to get assistance with paying her hydro, and the appellant clarified at the hearing that it was her room-mate who took the disconnection notice to the ministry, not her. The appellant admits that her room-mate received the disconnection notice sent in April 2012 and since there is no explanation provided for why the other notices sent by the hydro company would not be received, the panel finds that it is more likely than not that the appellant's room-mate received the other notices as well. The panel finds that the ministry's determination that the hydro expense was not an "unexpected expense", under Section 59(1)(a) of the EAR, was reasonable.

The panel also finds that the appellant has not provided sufficient evidence to demonstrate that there are no resources available to the family unit as there is no evidence of payments made by the other resident, the appellant's room-mate, although the appellant states that her room-mate had agreed to make these payments in exchange for the appellant's payment for the groceries for the entire household. The appellant is in receipt of monthly assistance which includes an amount for shelter costs and she stated that $400 from her shelter allowance had been used to make a payment to the hydro company in order to re-connect the hydro. The panel finds that the ministry's conclusion that it cannot be determined that there are no resources available to the family unit to meet the expense, under Section 59(1)(a) of the EAR, was reasonable.

Although the advocate argues that the appellant has two young children and without hydro the family unit experiences imminent danger to their family unit and are at risk of having their children removed as, without power, food cannot be cooked and the temperature in the home is not livable, the panel finds that the appellant prepared foods that do not require heating and the temperature in the home during the latter part of June would be livable. The appellant stated that it was difficult during the time that the hydro was disconnected as they had to get extension cords and run power from her neighbour's house, that they lost some of their food due to lack of refrigeration, and that she could not cook anything so they had to eat foods that did not require heating. The panel finds that the ministry's conclusion that there is not sufficient information to establish that

failure to meet the hydro cost will result in imminent danger to the physical health of any person in the appellant's family unit, pursuant to Section 59(1)(b)(i) of the EAR, was reasonable.

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of utilities because the requirements of Section 59 of the EAR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.