

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated August 29, 2012 which denied the appellant's request for a crisis supplement to cover utility costs. The Ministry held that the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met as the ministry found that utility costs were not an unexpected expense and there were alternate resources available to the family unit to pay for utility costs.

### PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 57

## PART E – Summary of Facts

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

- 1) Print out of ministry notes of interactions with the appellant on May 2, 2012 regarding a crisis grant for her hydro account; and,
- 2) Request for Reconsideration- Reasons.

In her Notice of Appeal, the appellant stated that she had been disconnected by the gas company since September 27, 2012 and she contacted the ministry in regard to this. The appellant stated that the outstanding bill is \$540.00 for heat and hot water and it is a desperate need. The appellant stated that she was in the appeal process and the gas company decided to disconnect her service. The appellant stated that she has two kids and no hot water and heat. The appellant stated that she is willing to pay back the amount and says it is a hardship and crisis.

In her Request for Reconsideration, the appellant stated that she called on July 19, 2012 and had only a few cents in her bank account. The appellant stated that the ministry authorized a cheque to the gas company and that she did not have the ability to pay this amount due to other bills and food, etc. The appellant stated that she could not believe that the cheque was revoked after being printed out. The appellant stated that she still needs the assistance and someone mentioned she could pay it back and that she would be willing to do that, that she could not afford to pay this bill. The appellant stated that the cheque was already paid and this is the reason for the appeal.

At the hearing, the appellant stated that she received a GST refund on October 5, 2012 and she put \$400 towards the outstanding amount with the gas company and the service has been re-connected. The appellant stated that there is still \$150 outstanding for the past due amounts, plus now the gas company wants her to pay a security deposit so she has to come up with about \$500 by October 31, 2012, or they will disconnect her service again. The appellant stated that at the time of her application on July 19, 2012, she did not have any funds, that she thought she had given the ministry a stub from the bank to show that she only had pennies in her bank account, that they were going to the food bank to survive, and she was in a crisis at the time. The appellant explained that she arranged an equal payment arrangement with the gas company, that she agreed to pay \$82 per month to avoid the higher costs typical in the winter months, and that the gas company insisted that she first pay the past due amount of \$369.97. The appellant stated that she explored the possibility of paying a portion of the outstanding amount each month, that she spoke to a manager at the gas company, and that they said they were not negotiating anymore and that the full amount had to be paid. The appellant stated that she has been able to negotiate arrangements in the past and that it was unexpected that they would insist on the full amount being paid.

The appellant stated that she spoke to the ministry on the telephone in the morning of July 19, 2012, she explained her situation and she was told that a cheque had been prepared for the gas company for the outstanding amount of \$369.97. The appellant stated that the ministry has taken her comments at the time ("I don't want to pay this") out of context, that no one wants to pay bills and she did not recall saying that she did not want to pay this account in particular. The appellant stated that she was told by someone at the gas company that the funds had been received that day from the ministry. The appellant stated that later that day the ministry called her and said that they would not be paying the outstanding amount with the gas company. The appellant stated that she had provided her consent for the ministry to obtain information directly about her account with the gas company, and that she did not think it necessary to provide copies of notices or letters received. The appellant stated that the gas company did not disconnect her service until September 27, 2012, that she has two children living with her and they had no hot water or heat which was difficult, and that she developed an infection from a lack of hot water with which to clean.

The appellant stated that she is a Person With Disabilities (PWD) and that she was no longer in receipt of assistance as of May 1, 2012 because she was in receipt of income in excess of the amount of assistance of

approximately \$1,336 per month. The appellant stated that she has a court order for her ex-spouse to pay \$1,545 per month in spouse and child maintenance and that the Family Maintenance Enforcement Program (FMEP) is enforcing the order on her behalf. The appellant stated that her ex-spouse is in arrears approximately \$10,000 and she is not sure when that will be paid although the FMEP is working on it. The appellant stated that she only receives \$280 per month for a Child Tax Benefit since she has to pay back amounts received by her when her oldest son was not living with her. The appellant stated that the funds she received after July 19, 2012 went to pay for food and other bills so she could not afford to pay the outstanding amount with the gas company. In response to questions, the appellant admitted that she does not have copies of the disconnection notice from the gas company, a statement of the amount outstanding, or documents to confirm the other bills that she was required to pay in July 2012. The appellant stated that she had also mentioned hardship as she understood that someone with income in excess of assistance rates could be paid an amount to alleviate hardship, but that the amount would have to be paid back later. In response to a question, the appellant acknowledged that she is not sure how she would pay this amount back to the ministry.

The ministry's evidence is that on July 19, 2012, the appellant requested a crisis supplement as she had received a disconnection notice from the gas company, but she did not provide a copy of the disconnection notice to the ministry. At the hearing, the ministry clarified that this notice is required to confirm the name of the party on the account as well as the breakdown of the amounts outstanding. The appellant advised that the outstanding was \$369.97, but the ministry does not have confirmation of this amount. At the time of the appellant's request, she had recently received a Family Maintenance payment of \$1,500 and she was about to receive her HST rebate and the Family Bonus payment. When questioned by the ministry, the appellant stated that she did not want to pay the outstanding bill. Although a cheque was issued to the gas company for the outstanding bill, it was cancelled by the ministry after further review. At the hearing, the ministry clarified that the action of issuing cheques is often subject to a review and that the cheque is considered 'pending' until the review is completed and then, if approved, the cheque will be sent out. In the appellant's case, the review of her financial situation which included a data match from third parties indicated that the appellant had received approximately \$1,500 in maintenance, and that she would be receiving \$560 for the Child Tax Benefit, as well as an HST rebate that month. The ministry stated that the appellant did not provide information to the ministry to show that she was not able to use these other funds to pay the outstanding amount to the gas company. The appellant received crisis grants from the ministry for utilities in May, June and July 2012. The ministry stated that the appellant was considered in receipt of assistance for July 2012 because supplements for camp fees were paid to her.

## 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, on the grounds that the requirements of Section 57 of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 57(1) of the EAPWDR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

### 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*.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (3) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
  - (b) any other health care goods or services.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit;
  - (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of
    - (i) the family unit's actual shelter cost, and
    - (ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;
  - (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.
- (5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).
- (6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.
- (7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the

following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

The appellant's position is that the hydro bill was an unexpected expense because she did not know that the gas company would refuse to negotiate an arrangement for payment of the outstanding amount. The appellant argues that she tried to make an arrangement with the gas company for her to pay an additional amount each month towards the past due amount and even though she talked to a manager at the gas company, they insisted the full amount be paid or her service would be disconnected. The appellant argues that the ministry told her that the amount outstanding had been paid and then, later that same day, said that it would not be paid and it surprised her that a payment by the ministry would be revoked. The appellant points to sub-section (7) of Section 57 of the EAPWDR as showing that a crisis supplement can be paid for utilities, such as fuel for heating. The appellant argues that on the day of July 19, 2012 she had already spent the maintenance payment on food and other bills and she was not yet in receipt of the Child Tax Benefit or the HST rebate, that she had only pennies in her bank account, and that she could not afford to pay the outstanding amount to the gas company. The appellant argues that she has two children living with her and that it was a crisis situation to face having no hot water or heat for her home.

The ministry argues that the provisions of Section 57 of the EAPWDR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met, specifically in this appeal that the supplement is required to meet an unexpected expense and there are no alternate resources available to the family unit to meet the expense. The ministry argues that utility costs cannot be considered as an unexpected expense as it is a regular ongoing expense and the appellant does not dispute that she was aware of the amounts outstanding to the gas company. The ministry also argues that there are resources available to the appellant to pay for the outstanding amount to the gas company, as the appellant is in receipt of maintenance payments of approximately \$1,500 per month, and she also received a Child Tax Benefit and an HST rebate that month. As well, the ministry points out that the appellant has not provided any documentary confirmation of the amount outstanding with the gas company or of the other bills that she stated she was required to pay with the funds she received.

The panel finds that although Section 57(7) of the EAPWDR provides for a crisis supplement to be paid for utility expenses, as set out, the Section also requires the expense must be 'unexpected' in the circumstances. The appellant argues that the refusal of the gas company to negotiate a payment plan for the past due amount was unexpected by her. The panel finds that there is not sufficient evidence provided by the appellant to show a pattern of behaviour by the gas company of negotiating arrangements for outstanding amounts such that its refusal to accept a proposal in July 2012 for payment of the past due amount of \$369.97 could be considered as 'unexpected' by the appellant. The panel finds that although the ministry had initially prepared a cheque to pay the outstanding amount with the gas company, that it was still pending for an internal review and that, following this review, the payment was not approved by the ministry. The panel finds that the ministry's determination that the outstanding amount to the gas company is not an "unexpected expense", under Section 57(1)(a) of the EAPWDR, 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 to meet the expense. The appellant acknowledged that she is in receipt of \$1,545 in maintenance per month and that she also received a Child Tax Benefit of \$280 and an HST rebate in July 2012. Although the appellant argues that only her financial situation on the day of her request, or July 19, 2012, is relevant to the decision, the panel finds that the ministry reasonably considered the funds that the appellant receives each month from any source as being potentially used by her to pay the

APPEAL #

outstanding utility account. As the ministry points out, the appellant has not provided any documentary confirmation of the amount outstanding with the gas company or of the other bills that she stated she was required to pay with the funds she received. 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 57(1)(a) of the EAPWDR, 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 57 of the EAPWDR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.