APPEAL #

PART C – Decision under Appeal

This is an appeal of a reconsideration decision of the Ministry of Social Development ("the ministry") dated September 28, 2012, in which the ministry denied the appellant a crisis supplement for clothing. The ministry relied on section 59 of the *Employment and Assistance Regulation* ("EAR"), finding that, while she might face imminent danger without the reconnection of her hydroelectricity, the disconnection was based on a failure to pay her bills, which was not unexpected. As well, there was no evidence that she had explored other resources available to her.

PART D – Relevant Legislation

EAR Section 59

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PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation.

The following information was before the ministry at the time of reconsideration:

- A Note to Worker from the appellant, received by the ministry on March 19, 2012, which states: "Request for Hydro payment to be paid through direct." In the space for a telephone number it states "no phone."
- A second Note to Worker from the appellant received the same date asking about the status of her crisis grant. For a telephone number it requests that a representative at a poverty group be contacted as the appellant had no telephone number.
- An invoice from BC Revenue Services dated August 4, 2012 indicating an overdue balance of $626. On it is hand-written, "huh! Thought was covered by Social Assistance. I do have status Canada (native)."
- Written on her Request for Reconsideration, the appellant wrote "still dealing with hydro. [Name] at [poverty organization] ill has paperwork essential to."
- A BC Hydro "Final Notice of Disconnection" dated August 8, 2012. It states, "[s]ervice at this address will be disconnected without further notice unless your account is paid in full immediately." The amount listed as due is $168.79.
- A BC Hydro bill dated August 13, 2012 indicating a past due amount of $204.33.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry's decision to deny a crisis grant, pursuant to section 59 of the EAR, to permit the reconnection of the appellant's hydroelectricity was reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

The applicable portion of section 59 of the EAR states:

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.*

Appellant's submission

In her request for reconsideration the appellant argues that her file was improperly closed in December due to a mistake on a Record of Employment. The power was cut off in February and she and her partner had to request help ("beg") from agencies for rent and for their hydro to be reconnected. She argues that if her file had not been closed initially she wouldn't have been in this predicament.

She further argued that had they known who their ministry worker was they would have been able to provide the proper information regarding their hydro installment plan. She disagrees with the ministry's contention that she had not provided a telephone number.

Ministry's submission

In its decision, the ministry agreed that the "failure to re-establish hydro may result in imminent danger to [the appellant's] physical health" but that it was not an unexpected expense. It stated that her file was not closed in December 2011 but that she had been denied income assistance due to "income in excess" and was issued "full benefits under appeal." There was no evidence that the appellant had made efforts to contact BC Hydro regarding her outstanding balance and that she had not made a payment since July 2012. Nor had she explored "other resources." With respect to the appellant's telephone number, the reconsideration officer acknowledged that the second note received by the ministry on March 19, 2012 contained contact information for a person at a poverty organization.

At the hearing, the ministry restated the reasoning contained in the decision under appeal and noted that with respect to "other resources" the ministry typically requires the appellant to access poverty groups, which sometimes provide funding for hydro reconnection. The appellant had accessed funds from such a source previously but there was no evidence that she had canvassed this approach in August.

Reasoning

The first criteria is set out in section 59 (1)(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..."

The ministry determined that the expense was not unexpected as the appellant had known of the outstanding balance, had not made a payment since July 2012 nor made an attempt to contact BC Hydro regarding the outstanding balance. Nor had she followed up with the ministry regarding the request to have direct payments made to BC Hydro.

The panel notes that the appellant did make a request in March 2012 that the ministry provide direct payments to BC Hydro. It did not contain a telephone number but in a second note received the same day she provided contact information for a representative at a poverty organization. She also argues that had she known her ministry worker she could have provided the proper information regarding the installment plan.

While it is unfortunate that the ministry did not connect the information on both forms and pursue the establishment of direct payments to BC Hydro, the appellant was made aware of the outstanding bills to BC Hydro. The ministry was reasonable to expect her to make some form of arrangement with BC Hydro when it was clear the bills were overdue and mounting.

With respect to the appellant's contention that it was the lack of a December 2011 income assistance payment (which she claimed resulted from a mistake in a Record of Employment), the panel finds that, regardless of the cause for the lack of an income assistance payment in December 2011, the length of time between December 2011 and August 2012 was sufficiently long to deal with the payments to BC Hydro. The ministry was reasonable to find the August notice from BC Hydro to be not unexpected.

The panel therefore finds the ministry reasonable in determining that the disconnection was not unexpected.

The ministry also found that the appellant had not accessed other resources, such as poverty groups, as she had previously. This relates to the second criteria in section 59 (1)(a):

> "and is unable to meet the expense or obtain the item because there are no resources available to the family unit..."

At the hearing the ministry discussed the fact that the appellant had accessed poverty groups for funding previously. The appellant mentioned this as well in her filings: that she and her partner had had to "beg" from agencies in February 2012 to get money to reconnect hydro and pay rent.

The only evidence that she canvassed these agencies as a result of her August 2012 disconnection notice is the note written on the Request for Reconsideration which states "still dealing with hydro. [Name] at [poverty organization] ill has paperwork essential to." While this indicates some attempt to access available resources, it is not sufficient to disturb the ministry's finding. The panel finds the ministry reasonable in determining that the appellant had not tried to access available resources.

The ministry found that the appellant was likely to face imminent physical danger to the physical health of the family unit, however section 59 requires all three criteria to be met in order for a crisis supplement to be issued. The panel finds the ministry reasonable in determining that the other two criteria were not met (whether the situation was unexpected and whether the appellant had tried to access other resources).

Section 59(1)(b)(ii) discusses crisis supplements for situations where

> "the minister considers that failure to meet the expense or obtain the item will result in
>
> ...
>
> (ii) removal of a child under the *Child, Family and Community Service Act*.

There was no evidence that there were children in the family unit nor that they were subject to removal, therefore this test was not applicable to the appellant in this case.

In conclusion, the panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

The decision is confirmed.