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PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated August 14, 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

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PART E – Summary of Facts

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

1) Shelter Information for rental of premises commencing September 1, 2011 for a total rent of $1,150 per month not including utilities, with 3 adults and 2 children at the address and the appellant's portion being $450 per month for a basement suite;
2) Letter dated November 7, 2011 to the appellant requesting that she have the Medical Report- Persons with Persistent Multiple Barriers (PPMB) completed and returned to the ministry to determine her continued eligibility for the PPMB category;
3) Medical Report- PPMB dated March 27, 2012, which states, in part, that: the appellant's primary medical condition is chemical dependency and a secondary medical condition of depression with the date of onset being illegible. In the section of the Report regarding restrictions, the physician noted "...pain in lower back and right leg;"
4) Statement of Account dated June 13, 2012 from hydro company to the appellant indicating an amount past due of $1,335.71 and a cost of $300.52 for the period April 14 to June 13, 2012;
5) 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;
6) Fax dated June 19, 2012 from the hydro company to the advocate stating that the appellant's son added his name to the subject account and will appear on all future invoices and the balance required for reconnection is $1,155.89;
7) Customer Account Information Request Form dated June 28, 2012 to the hydro company requesting all communication notes from April 2012 to present, anything relating to the ministry contacting hydro regarding extensions and payments;
8) Various fax transmissions in June and July 2012 from an advocate to the ministry regarding procedural matters and requesting communication notes on the appellant's file;
9) Case notes for the appellant's file with the ministry from April 19, 2012 to June 20, 2012;
10) Print out of ministry policy for crisis supplement-authorities and responsibilities; and,
11) Request for Reconsideration- Reasons, prepared by an advocate on behalf of the appellant.

This hearing had been previously adjourned to allow the appellant time to obtain further documents with the assistance of her advocate, and to have the advocate attend the hearing to represent her. On October 3, 2012, the advocate who had been assisting the appellant advised the Tribunal that she is not representing the appellant in this hearing, and this information was forwarded to the appellant. The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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 for Reconsideration, the advocate reports that the appellant and the tenant who resides upstairs and who is the appellant's daughter-in-law, went to the ministry office on June 14, 2012 to discuss why their hydro had been cut off "...due to this matter was being taken care of for the past 3 months." The appellant tried to explain to the ministry 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 the ministry had called the house to verify that he had taken care of everything and not to worry. The appellant's daughter-in-law 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 Request for Reconsideration also set out that the appellant reports that as her son and his wife and their children were living upstairs, she understood that the ministry was aware of who was living in the house and "...resolved the matter accordingly in April in terms of the payment." The appellant states from her understanding the reason she did not follow up with the ministry until June 14, 2012 is because her hydro was not disconnected leading her to understand that the outstanding bills had been paid. The appellant states that it was her understanding that the ministry had approved the crisis grant request for utility security deposit as well as her request for the utility bill. The appellant states that her disconnection notice was unexpected as she was not informed that the ministry was not going to pay the outstanding bill. The appellant states that she understood that the ministry had paid her outstanding bill, just like the security deposit. The appellant states that it was not disclosed by the ministry that an extension was requested or that no payment would be sent. The advocate states that the appellant is not a sophisticated person and her mental health conditions further limit 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 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.

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 February 19, 2012, the appellant requested and received a repayable security deposit of $519 for hydro as, otherwise, the hydro service would be disconnected. On March 23, 2012, the appellant attended the ministry office and advised that she had recently received her first hydro bill for $700. The appellant advised that hydro costs were split three ways with others in the house and that they owe her money. On April 19, 2012, the appellant attended the ministry office and submitted a hydro disconnect notice for $726.15. The appellant advised that the hydro is for the whole house but she is only living in the basement suite and the upstairs tenants are family. The appellant was advised that shelter costs need to be shared equally between those on income assistance, and the appellant stated that she understood and agreed. The ministry contacted hydro and arranged for the outstanding balance to be deferred until April 24, 2012 to give the appellant time to discuss shared hydro costs with the other occupants of the house. The appellant did not contact the ministry further and no further action was taken by the ministry.

June 14, 2012 the appellant attended at the ministry office and stated that the hydro had been disconnected that morning. The appellant stated that she had not received any bills from hydro since she opened the account and she assumed that 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 left a telephone message for the appellant on May 30, 2012 regarding the final warning of disconnection. It was also confirmed that no payments had been received from the appellant since the security deposit of $519 was paid in February 2012, nor have they received any contact from the appellant since initially opening the account in January. The account balance at this time was $1,335.71 and for reconnection it would cost an additional $140. Hydro requires the total outstanding balance plus the reconnect fee to reconnect services and there is no deferral possible.

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At the hearing, the ministry added that the documents show that the appellant has had PPMB status for a period of several years and that she is familiar with how to make requests to the ministry. The ministry stated that at the relevant time, the appellant was getting a cheque from the ministry for income assistance in the amount of $657.92, from which $20 was being deducted under a re-payment agreement, that $450 was being directed to the landlord for rent and $140 to the gas company, leaving a balance each month of $47.92. The ministry stated that even though the ministry pays the gas company directly, it is through a deduction from the appellant's income assistance and not an additional payment and the appellant still receives all the statements of account and notices from the gas company as she is the account holder. The ministry stated that the high shelter costs that the appellant has taken on have resulted in very little remaining each month for any other bills or for her support. The ministry stated that the Statement of Account dated June 13, 2012 from the hydro company shows that the hydro cost is approximately $150 per month. The ministry stated that if the ministry was paying the hydro for the appellant, as the appellant claims, the appellant would be able to see on her cheque each month that an amount was being deducted for hydro. The ministry stated that the appellant received the hydro statement in March and a disconnect notice in April 2012, and no reason is provided for why she would not receive all the other notices from hydro.

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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 understood the ministry had taken care of this matter on April 12, 2012 when they created a billing for her for hydro. The appellant argues that the ministry had called the house to verify that he had taken care of everything and the ministry was making payments from her assistance. The appellant argues that she is not a sophisticated person and her mental health conditions further limit her. The appellant argues that it is not common for the ministry to contact hydro unless they are assisting with payments. The appellant argues that she did not receive any bills from the hydro company and that it was unexpected when the hydro was disconnected on June 14, 2012. The appellant argues that in the original decision, the ministry was satisfied that the appellant's request for a crisis grant met all of the criteria in Section 59 of the EAR except that it was an unexpected need and, therefore, that is the only criteria that should be open to appeal. The appellant argues that she does not know of any other resources available to her to pay the hydro bills, that the legislation does not state that the hydro bill must be paid by the other parties. The appellant argues that the ministry is already satisfied that without hydro the appellant is experiencing an imminent danger to her health.

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 or the removal of a child under the *Child, Family and Community Service Act*. The ministry argues that utility costs cannot be considered as an unexpected expense and the hydro company issued hydro bills, disconnection notices and a final disconnection notice to the appellant. 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. The ministry argues that evidence from hydro establishes that the appellant was aware of her outstanding balance for hydro in March and April 2012. The ministry also argues that there are resources available to the appellant to pay for hydro costs as the appellant agreed that the hydro bill was to be split with the other tenants in the house. The ministry argues that information has not been provided to establish that the appellant has no resources available to her to pay the outstanding bill in collaboration with other tenants. 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 appellant's physical health or the removal of a child from her home under the Child, Family and Community Service Act. The ministry argues that the loss of hydro occurred in the summer time and is an inconvenience but the appellant would not suffer unduly without heat or

electricity. The ministry argues that, as a last resort, the appellant could re-locate to a women's shelter if an imminent danger without hydro should present itself.

The appellant's position is that the hydro bill was an unexpected expense because she understood the ministry had created a billing for her for hydro on April 19, 2012. However, the ministry points out that if the ministry was paying hydro directly on the appellant's behalf, she would see an amount deducted from her cheque for income assistance each month. While the appellant argues that she is not a sophisticated person and her mental health conditions further limit her, the panel finds that the physician describes restrictions from the appellant's medical conditions as "...pain in lower back and right leg", in the Medical Report- PPMB dated March 27, 2012, and these would not impact the appellant's ability to understand. As well, the ministry notes indicate that on April 19, 2012, the appellant was advised that shelter costs need to be shared equally between all tenants of the accommodation, and the appellant stated that she understood and agreed. The appellant argues that she did not receive any bills from the hydro company and that it was unexpected when the hydro was disconnected on June 14, 2012, however 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 appellant by telephone on May 30, 2012 and left a message regarding the final warning of disconnection. The appellant admits that she received the disconnection notice sent to her by hydro 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 other notices were delivered to the appellant's residence 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 advocate argues that in the original decision, the ministry was satisfied that the appellant's request for a crisis grant met all of the criteria in Section 59 of the EAR except that it was an unexpected need and, therefore, the other criteria have been satisfied. The panel finds that the decision being appealed under Section 24 of the Employment and Assistance Act is the ministry's reconsideration decision which found that none of the criteria in Section 59 had been met and, therefore, the ministry's findings on all of the criteria are subject to review on the appeal. The appellant argues that she does not know of any other resources available to her to pay the hydro bills, that the legislation does not state that the hydro bill must be paid by the other parties. The panel finds that there is no evidence of payments made by the other residents of the premises towards hydro, although the appellant agreed that the other tenants should be paying a portion of the shelter costs, and the appellant has not provided sufficient evidence to demonstrate that there are no resources available to her. 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 appellant argues that the ministry is already satisfied that without hydro the appellant is experiencing an imminent danger to her health, the panel finds that the reconsideration decision found that this criteria of Section 59 of the EAR had not been met. The ministry argues that the loss of hydro occurred in the summer time and is an inconvenience but the appellant would not suffer unduly without heat or electricity, and the panel finds that the appellant has not provided evidence of an imminent danger to her health. There was also no evidence provided by the appellant that the loss of hydro will result in the removal of a child under the *Child, Family and Community Service Act*. 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 or the removal of a child under the *Child, Family and Community Service Act*, pursuant to Section 59(1)(b) 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.