

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated December 5, 2012, which denied the appellant a crisis supplement to purchase a new furnace. The ministry determined that the appellant was not eligible to receive a crisis supplement under section 59 (1)(a) and (b) and 59(5) of the Employment and Assistance (EA) Regulation. Specifically, the ministry determined that the crisis supplement was not required to meet an unexpected expense, or that the item requested was unexpectedly needed, and that alternative resources were available to the appellant to purchase the requested item. The ministry further determined that failure to provide the item would not result in imminent danger to the appellant's physical health and that the cumulative amount of crisis supplement requested exceeds the amount that may be provided to or for a family unit in a year.

PART D – Relevant Legislation

Employment and Assistance Act (EA) section 4
Employment and Assistance (EA) Regulation section 59 (1)(a) and (b) and section 59(5)

PART E – Summary of Facts

Information and records before the ministry at the time of their reconsideration decision include the following:

- Faxed copy of an invoice dated February 28, 2012, sent to the ministry by the appellant's supplier for work completed on the appellant's furnace. The invoice amount was \$159.60.
- Faxed copy of an invoice dated February 23, 2012, sent to the ministry by the appellant's supplier for work completed on her furnace. The invoice amount was \$133.57.
- A copy of a letter from BC Hydro to the appellant dated March 1, 2012, stating that they have reviewed her claim for damage to her phone system which occurred on February 23, 2012, and denied her claim for compensation.
- A copy of a letter from BC Hydro to the appellant dated September 14, 2012, regarding her claim for damage for her furnace relay switch. The letter apologizes for an earlier denial letter sent to the appellant dated March 1, 2012, which mistakenly denied the appellant's claim for damage to her phone system. This letter then states that the appellant's claim for damage to her furnace relay switch has been denied and that BC Hydro now considers the matter closed.
- A copy of a proposal from a supplier to complete the installation of a new furnace at a total cost of \$4,714.91 dated May 25, 2012, and faxed to the ministry by the appellant September 24, 2012.
- A copy of a letter to the appellant from a supplier dated November 9, 2012, which provides two furnace replacement estimates. The first estimate was for \$3,778.00 and the second for \$2,989.00 plus applicable taxes.
- Copy of a letter to the appellant from the same supplier also dated November 9, 2012, which provides two additional furnace replacement estimates. The first estimate was for \$5,936.00 and the second for \$4,236.00 plus applicable taxes.
- A copy of the appellant's Request for Reconsideration signed by the appellant November 21, 2012. In section 2 of the form completed by the ministry it states that the appellant was requesting a crisis supplement to replace her furnace and that when she previously had trouble with her furnace in February 2012, she was advised by the ministry that she needed to look into available BC Housing Programs along with other resources such as an equity loan against her home, to assist with the cost of getting her furnace replaced. The ministry then presents arguments as to why the appellant is ineligible for the requested benefit.
- In section 3 of the Request for Reconsideration form which provides reasons for the appeal and is completed by the appellant, she attached a letter dated November 21, 2012. In this letter the appellant outlines the background for her request for a new furnace, and states that she approached BC Hydro for compensation for the damage to her old furnace, but with no success. The appellant reports that between the years 2006 through 2009 she had applied for the RRAP through CMHC to assist with upgrades to her 10 foot by 40 foot 1970 mobile home, however the bid submitted exceeded \$25,000.00 and were on an all or nothing basis which her equity on the property would not allow for. Since the appellant's furnace stopped working she reports that she has been relying on 1500 watt electric heaters. The letter goes on to provide the appellant's preference for a particular furnace and presents arguments as to why she believes she should be eligible for financial support for a new furnace.

In the appellant's Notice of Appeal dated December 14, under the section titled, "Reasons for Appeal", she provides argument as to why she believes the ministry's reconsideration decision was not reasonable.

The appellant did not attend the hearing. The panel received confirmation from the Tribunal that the appellant had been duly notified of the date, time and location of the hearing held on January 9, 2013. Accordingly, under 86(b) of the Employment and Assistance Regulation, the panel heard the appeal in the appellant's absence.

At her hearing the ministry stood by the record indicating that on February 22, 2012, the appellant requested assistance from the ministry as the pilot light on her furnace had gone out. It was determined by a repair company that the relay switch had burnt out and the appellant was advised that the furnace could not be repaired due to its age and other problems. The ministry provided a crisis supplement in the amount of \$293.17 to cover the related invoices from the furnace repair company (\$133.57 in February and \$159.60 in March). At that time the appellant was advised by the ministry to look into available BC housing programs to assist with funds to get her furnace replaced and into other resources such as an equity loan against her home. The ministry reports it heard nothing further from the appellant until September 24, 2012, when they received a faxed quote for a new furnace for the appellant's home. In it's reconsideration decision the ministry once again advised the appellant of the need to seek funding for a new furnace from other resources stating she had presented no evidence establishing that funding is unavailable to her through programs (such as the Home Residential Rehabilitation (RRAP) or the Emergency Repair Program (ERP) Assistance Program which are both offered through the Canada Mortgage and Housing Corporation (CMHC)).

In response to a question from a panel member the ministry reported that the appellant was a single recipient of income assistance and is designated as a Person with Persistent Multiple Barriers (PPMB). The appellant currently receives \$372.14 per month for shelter and \$282.92 for support. The maximum amount that she would be eligible to receive under crisis supplement in a year would be \$1315.84. The ministry explained this is a little more than twice her current monthly income as her shelter costs are less than the maximum allowed.

The Panel finds that the Appellant's written testimony attached to her Notice of Appeal helped to clarify her reasons for believing the ministry's decision was not reasonable. Therefore, the Panel admits that testimony as being in support of evidence before the Ministry when it made its reconsideration decision in accordance with section 22(4) of the Employment and Assistance Act.

The panel made the following findings of fact

- The appellant is a single recipient of income assistance and has PPMB status.
- The ministry provided a crisis supplement to the appellant totaling \$293.17 to cover related invoices from a furnace repair company (133.57 in February 2012 and \$159.60 in March 2012).

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant did not meet the applicable statutory requirements to receive a crisis supplement for the purchase of a new furnace. Specifically, the ministry determined that a crisis supplement was not required to meet an unexpected expense or that the item requested was unexpectedly needed and that alternative resources were available to the appellant to purchase the item requested. The ministry further determined that failure to provide the item would not result in imminent danger to the appellant's physical health, and that the cumulative amount of crisis supplement requested exceeds the amount that may be provided to or for a family unit in a year. In arriving at its reconsideration decision the ministry relied upon the following legislation:

Employment and Assistance Act

Income assistance and supplements

- 4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance Regulation

- 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*.
- (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 income 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.

There is no dispute by either party that the appellant is a single recipient of income assistance with PPMB status and is eligible to apply for a crisis supplement as set out in section 4 of EA and section 59 1 of the EA regulation.

The ministry's position is that a crisis supplement was not required by the appellant to meet an unexpected expense or that the item was unexpectedly needed and that alternative resources were available to the appellant to purchase the item. The ministry further determined that failure to provide the item would not result in imminent danger to the appellant's physical health and that the cumulative amount of crisis supplement requested exceeds the amount that may be provided to or for a family unit in a year.

The appellant's position is that she has tried to comply with everything requested of her by the ministry and does not understand why she is being denied a crisis supplement. Furthermore, she has replaced the skirting, plumbing, maintained the roof, and paid the property taxes on her home over the course of 17 years and therefore believes she should be eligible for some kind of supplement to replace her furnace. The appellant also argues that the lack of a furnace in her home during severe winter weather has and will continue to result in immanent danger to her physical health.

As to the requirements set out above in section 59(1)(a) of the EA regulation. The appellant argued in section 3 of her Request for Reconsideration form that once she became aware that her furnace required replacement she attempted to seek redress for the damage done to her furnace relay switch through BC Hydro. While this process was not successful as can be seen in the September 14, 2012, letter from BC Hydro to the appellant, she argues in the letter attached to her Notice of Appeal

that she is really having a difficult time trying to interpret the ministry's reasoning for denying her request stating, "what you don't know is very hard to conger up". She states if there is an ERP through the CMHC and she is eligible, she would be most willing to try for that or any other resource that will help her to purchase a new furnace. In section 3 of the appellant's Request for Reconsideration she further argues that she has been plagued with life threatening physical health issues and has had to postpone and prioritize follow-up on certain responsibilities.

The ministry argued that the expense to replace the appellant's furnace was not unexpected and that the item requested was not unexpectedly needed. On February 22, 2012, the appellant requested assistance from the ministry as the pilot light on her furnace had gone out. It was determined by a repair company that the relay switch had burnt out and the appellant was advised that the furnace could not be repaired due to its age and other problems. The ministry provided a crisis supplement in the amount of \$293.17 to cover the related invoices from the furnace repair company (\$133.57 in February and \$159.60 in March). The ministry argued that at that time the appellant was well aware that her furnace needed replacement and was advised by the ministry to look into available BC housing programs to assist with funds to get her furnace replaced and into other resources such as an equity loan against her home. The ministry argued that it heard nothing further from the appellant regarding the matter until September 24, 2012, at which time they received a faxed quote for a new furnace. The ministry argued that as the appellant presented no documental evidence at the time of reconsideration demonstrating that she followed up on either of the suggestions made to her by the ministry in February 2012, she failed to demonstrate that she is unable to meet the expense or obtain the item requested because there were no resources available to her. The ministry further argued that the appellant has been using alternative methods for heating her home since that February 2012, (three 1500 watt space heaters).

The panel finds that based on the evidence presented in section 3 of the appellant's Request for Reconsideration, her submission with her Notice of Appeal, and the ministry record, there is no doubt that the appellant became aware that her furnace was in need of replacement in February 2012. Furthermore, the appellant failed to present documental evidence demonstrating that she was unable to meet the expense or obtain the item requested because there were no resources available to her. The panel finds that while the appellant argues in her Notice of Appeal that if there is an ERP through the CMHC and she is eligible, she would be most willing to try for that or any other resource that will help her to purchase a new furnace, no documental evidence was presented demonstrating that she had made application to any of these programs or looked into any other resources suggested to her by the ministry. The panel also finds that while the appellant argues in section 3 of her Request for Reconsideration form that that she has been plagued with life threatening physical health issues and has had to postpone and prioritize follow-up on certain responsibilities, she has not stated what these responsibilities are, or how she prioritized them. The panel also finds that the appellant has presented no documental medical evidence to substantiate the existence of a medical condition or conditions, which would have prevented her from following through on suggestions made to her by the ministry regarding potential funding sources for a new furnace. For these reasons that panel finds that the ministry reasonably determined that the appellant has not met the regulatory requirements set out above in section 59(1)(a) of the EA regulation.

As to the requirements set out above in section 59(1)(b) of the EA regulation. The appellant argued in her letter attached to her Notice of Appeal that she thinks freezing is an immanent danger to her physical health. She goes on to argue that the few small heaters that she is using are more of an

attempt to keep the plumbing and water line from freezing and bursting from leaks when thawed.

The ministry argued that the appellant has been living in her home without a furnace since February 2012, and that she has relied upon alternative heat sources, (three 1500 watt heaters). For this reason the ministry argued that failure to provide the item requested will not result in immanent danger to the appellant's physical health.

The panel finds that while it has no way to determine the adequacy, or inadequacy, of the appellant's alternative heat source (three 1500 watt space heaters), the appellant reports in section 3 of her Request for Reconsideration that she lives in a relatively small home (a 10 by 40 foot 1970 mobile home), and has relied upon her current source of heat since February 2012. The panel further finds that the appellant has chosen not to move, but rather to remain in her home throughout this time period, and therefore concludes that the evidence does not establish failure to provide funding for the requested item will result in imminent danger to her physical health. For these reasons the panel finds that the ministry reasonably determined that the appellant has not met the requirements set out above in section 59(1)(b)(i) of the EA regulation.

As to the requirements set out above in the section 59(5) of the EA regulation. The ministry argued at the hearing that as the appellant had already received \$293.17 for a crisis supplement to take care of her furnace invoices in February and March of 2012, the maximum additional crisis supplement available to her during the remainder of the year is \$1022.67. The ministry further argued that as the cost of the cheapest replacement furnace is quoted at \$2898.00 this is well in excess of the allowable cumulative amount of crisis supplement that may be provided to or for a family unit in a year, and the appellant therefore does not meet the regulatory requirements set out in section 59(5) of the EA regulation.

The appellant presented no argument opposing the ministry's position on this matter.

The panel finds the maximum rate for shelter and support for a single welfare recipient with PPMB status is \$655.06. Based on a calculation provided in the EA regulation 59(6) noted above, the cumulative amount of crisis supplement that may be provided to the appellant is determined by multiplying by two, the appellant's maximum amount of income assistance received in the month in which she applied for the crisis supplement, which in this case comes to \$1315.84. At the time of application for a crisis supplement the appellant had already received \$293.17 for a crisis supplement used to pay furnace invoices in February and March of 2012. This means she was potentially eligible to receive a maximum of an additional \$1022.67 in crisis supplement during the remainder of 2012. As the cost of the cheapest replacement furnace is quoted at \$2898.00 the panel finds this amount well in excess of the cumulative amount of crisis supplement that may be provided to or for a family unit in a year, and therefore finds that the ministry reasonably determined that the appellant does not meet the regulatory requirements set out above in section 59(5) of the EA regulation.

As all three of the legislative requirements set out above in section 59(1), 59(1)(a) and 59(1)(b)(i) of the EA regulation must be met by the appellant in order to receive a crisis supplement, and as the least expensive furnace replacement is well in excess of the maximum cumulative amount allowable under section 59(5) of the EA regulation for a year, the panel finds the ministry's reconsideration was reasonably supported by the evidence, and confirms the ministry's decision.