

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry's reconsideration decision dated April 2, 2013 which held that the appellant was not eligible for a Crisis Supplement to pay an outstanding hydro bill because he did not establish that the expense was unexpected and that failure to pay the BC Hydro bill will result in imminent danger to his physical health in accordance with the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57(1)(a) and (b)(i).

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance for Persons with Disabilities Act, (EAPWDA),*  
Section 5, Disability assistance and supplements

*Employment and Assistance for Persons with Disabilities Regulation, (EAPWDR),*  
Section 57, Crisis Supplement

**PART E – SUMMARY OF FACTS**

The evidence before the minister at reconsideration was as follows.

- The appellant had received a crisis supplement to pay his BC Hydro in January 2012.
- An equal payment plan and installment plan was then set up for the appellant.
- The ministry began sending monthly payments to BC Hydro directly on the appellant's behalf.
- In September 2012, the appellant cancelled the payment plan with BC Hydro, at that time the appellant had an \$800.00 credit on his account.
- That \$800.00 credit has been used to cover ongoing BC Hydro usage.
- Since the payment plan was cancelled in September 2012, the appellant has made two payments
  - \$120.00 on January 24, 2013
  - \$100.00 on February 23, 2013
- The February 2013 BC Hydro bill shows an outstanding balance from the previous bill of \$496.53 a total amount past due of \$1720.50.

With the Notice of Appeal the appellant included his BC Hydro bill dated March 25, 2013. This bill shows a payment of \$100.00 made February 27, 2013 with \$1620.50 transferred to an installment payment plan resulting in monthly installments of \$400.00

At the hearing the appellant said he didn't know what happened, since his hydro meter was changed to a smart meter there has been a huge increase in the amount of hydro the meter says he is using and adds that his neighbours are having the same problem. He has shut down his air cleaners but he says that hasn't made much of a difference. The appellant states that he called BC Hydro and the response he received was that his old meter must not have been working. No one from BC Hydro has been to his property to check the new meter. The appellant said that about two years ago someone from BC Hydro came to his property and told him that his meter was from 1973 and was set up to with an older stage system resulting in lower billing rates, the appellant recalls the worker telling him if the meter was changed it would make a big difference.

The appellant said the Crisis Supplement he needed in 2012 was a different circumstance that had been because his neighbour had switched his meter for two months.

The appellant said he cancelled the payment plan set up by the ministry because he was paying more a month than he was using, in 9 months he had built up a credit of \$800.00 which he said should have covered the next 4 months, based on his usage.

The appellant states he paid \$400.00 on the bill in April but has no more money to pay towards this bill. He needs money to pay his property tax and to cover basic living costs.

The ministry referred to the Reconsideration Decision; in particular the ministry stated the monthly utility bill is not an unexpected expense. Since the appellant cancelled the monthly payment plan he has not been making full payments month to month. After BC Hydro gave notice to the ministry that the payment plan was terminated, the ministry representative had warned the appellant that he may end up in a situation where he could not pay his bill.

The ministry stated there was nothing on the record showing the appellant's concern that his Hydro meter was not working properly.

The panel determined the additional oral evidence was admissible under section 22(4) of the *Employment and Assistance Act* (EAA) as it was in support of the records before the minister at reconsideration.

The panel determined the BC Hydro bill dated March 25, 2013 was admissible under section 22(4) of the EAA as it was in support of the BC Hydro records before the minister at reconsideration.

## PART F – REASONS FOR PANEL DECISION

The issue is whether the Ministry's decision was reasonable in denying the appellant a Crisis Supplement to pay an outstanding BC Hydro bill because he did not establish that the expense was unexpected and that failure to pay the BC Hydro bill will result in imminent danger to his physical health in accordance with the EAPWDR section 57(1)(a) and (b)(i).

The applicable legislation is set out below.

### **Employment and Assistance for Persons with Disabilities Act**

#### **Disability assistance and supplements**

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

### **Employment and Assistance for Persons with Disabilities Regulation**

#### **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, and
- (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.

(BC Reg. 13/2003)

The appellant argues that the amount of the BC Hydro bill was unexpected and that he believes there is a problem with the new meter. He says he does not believe he has used the volume of hydro billed to him and as a result does not know how his bill got to be so high.

The appellant says he needs this crisis supplement to maintain his hydro. If he does not get the supplement he will lose his hydro which will have the following results:

- o he can't run his air purifiers;
- o he will lose his food for a year, his main diet is seafood caught seasonally and frozen, if it is lost he has no way to replace his food;
- o he will not have water for a hot shower;
- o if he is in an environment under 80 degrees Fahrenheit he suffers extreme pain; and
- o he cannot carry water or cut wood due to his arthritis and fibromyalgia.

The appellant has a number of health issues: emphysema, arthritis, asthma and fibromyalgia. He needs power for running water and to keep his food. Without power he believes he will become ill and does not know how he will manage.

When asked directly by a panel member, the appellant responded that BC Hydro has not yet given him notice his power will be cut off.

The ministry argues that the legislation sets out three distinct criteria and that each of these tests must be met in order to be eligible for the crisis supplement. The reconsideration decision found that the appellant did not meet two of those criteria. At the hearing the ministry argued the main focus was that the supplement was required to meet an unexpected expense or obtain an item unexpectedly needed under section 57(1)(a) of the Regulation. The ministry argues that when the appellant cancelled the payment plan, he knew he would be responsible for paying his monthly hydro bill. The ministry further argues that if there is a problem with the meter reading and the appellant is being over charged the ministry would not pay for a debt that has not been incurred.

The panel cannot accept that the BC Hydro bill was unexpected; the appellant would have received bills regularly and would have seen that his credit was used up in November. He made no payment in December and the payment he made in January left an unpaid balance of \$496.53. While the appellant has told the panel that his meter is not working

properly, there is no record indicating he has challenged the bill with BC Hydro. The appellant also said that he believed his old meter to be using an older stage system so the increase may be attributed to the updated meter. Even if that is the case, that the hydro rate has unexpectedly increased, the appellant still knew that he was responsible for paying his hydro once he cancelled the payment plan and he did not make a payment from November through January.

The panel finds the ministry's determination that the appellant was not eligible for a Crisis Supplement under section 57(1)(a) of the EAPWDR was reasonably supported by the evidence.

The appellant told the panel about his medical conditions but did not provide sufficient evidence to establish that failure to receive the supplement would result in imminent danger to his physical health as set out in section 57(1)(b)(i). The appellant has yet to receive notice from BC Hydro that his power will be shut off, there was no medical evidence submitted nor was the appellant able to describe the consequences of losing his power in a way that would meet this criterion.

The panel finds the ministry's determination that the appellant was not eligible for a Crisis Supplement under section 57(1)(b)(i) of the EAPWDR was a reasonable application of the applicable enactment in the circumstances of the appellant.

For the foregoing reasons the panel finds the ministry's decision was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant, as such the panel confirms the decision.