

**PART C – Decision under Appeal**

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated May 7, 2013 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 or an item unexpectedly needed.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR), Section 59

## PART E – Summary of Facts

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

- 1) Statement of Account dated March 29, 2012 from BC Hydro to the appellant indicating an amount past due of \$188.52 and a status of cost of energy of \$1,122.56 and monthly installments of \$490 and an anniversary date of May 2012, as well as payment arrangement amounts due February 9 (\$95) and February 20 (\$27.23) under an installment plan;
- 2) Statement of Account dated June 6, 2012 from BC Hydro to the appellant indicating an amount past due of \$1,063.53 and a status of cost of energy of \$118.04 and monthly installments of \$118 and an anniversary date of May 2013;
- 3) Letter dated January 8, 2013 from BC Hydro to the appellant providing an Installment Plan Notice for regular monthly payments covering the period February 28, 2013 through January 28, 2014. If any of these payments are not received by the due date, the installment plan will be cancelled and the full amount will be due immediately and late payment charges will also apply. Failure to pay will result in further credit action, including disconnection of service;
- 4) Letter dated March 11, 2013 from BC Hydro to the appellant providing a Final Notice of Disconnection and setting out an amount due of \$1,021.09; and,
- 5) Request for Reconsideration- Reasons prepared by an advocate on behalf of the appellant as well as a hand-written statement by the appellant dated April 16, 2013.

The appellant advised that the advocate who had assisted her in the appeal would not be attending the hearing because the appellant did not feel that the advocate was helpful to her and she wished to represent herself.

In her Notice of Appeal, the appellant expressed her disagreement with the ministry reconsideration decision and wrote that she has not been heard about the hydro problem. The appellant wrote that she has proven that she was paying it, and that she only needed help to pay the over-usage. In the Request for Reconsideration, the advocate wrote that the appellant receives income assistance as a Person with Persistent Multiple Barriers to Employment (PPMB). She rents a house and has lived there with her teen-aged daughter and an adult daughter who is a PWD since May 2011. The appellant has a variety of physical impairments and cognitive deficiencies, including decreased writing and comprehension skills. From May to December 2011, the appellant was required to pay approximately \$30 per month to BC Hydro as part of an equal payment plan (EPP). This amount increased to \$70 over the period from January to May 2012. These monthly amounts were based on the usage incurred by a previous tenant. The appellant's monthly usage was considerably higher than had been the previous tenant's and, in May 2012, BC Hydro made a significant adjustment to the appellant's bill of \$733.32. The appellant was "dumbfounded" and had no idea where this adjustment came from. She wanted to pay back the amount owing and subsequently entered into a series of installment plans. The amounts owing were too large and the appellant was unable to pay down the balance. On March 11, 2013 the appellant received a Final Notice of Disconnection from BC Hydro. She provided the ministry with a copy on March 15, 2013 and requested a crisis supplement for utilities.

In her written statement included with the Request for Reconsideration, the appellant wrote that in June 2012 she received three bills from BC Hydro at once for the amount of \$1,065.53 and she was "dumbfounded." The appellant wrote that when she called BC Hydro they told her it was an annual over-usage of her hydro. She tried paying this on her own by making 4 different installment plans, but she failed to meet the payments and they were all cancelled. On March 15, 2013 she took the disconnection notice that she received to the ministry and requested help. On March 26, 2013, BC Hydro told her they would turn off their hydro in 24 hours. The appellant wrote that she paid \$650 from her bank account to save her hydro and she was told that she had until April 15 to pay \$493.00. The appellant wrote that this was her rent and food money.

At the hearing, the appellant stated that all the time she lived at her previous address, she never had an "over-usage" of her hydro before. She moved into her current residence in May 2011 and the previous tenant was

one single woman while the appellant lives there with her family. The appellant stated that she thought hydro would have figured out how much she needed to pay. The appellant stated that she did not receive monthly bills from BC Hydro for April and May 2012 and, in June 2012, she got 3 bills from BC Hydro all at the same time for April, May and June. The appellant admitted that she did not pay anything for hydro for the months that she did not receive bills. The appellant stated that when she talked to BC Hydro they explained that the delay was due to the installation of a smart meter.

The appellant stated that she admits that she could not keep up with the bills, but she is not sure how they got so high. She got the bills and thought she had it under control but the amounts kept going up and up. The appellant stated that she thought she could do it on her own and that is why she did not go to the ministry earlier. The appellant stated that when she got the call from BC Hydro that her hydro was going to be cut off she panicked and paid the money she had in the bank. The appellant stated that her teen-aged daughter lives with her and she was worried that the ministry would get involved and her daughter would be taken away. The appellant stated that her older, adult daughter has a drug problem so she does not give the appellant much money, her daughter gives what she can and the appellant will not kick her out. The appellant stated that she has since borrowed the money to pay the balance of her hydro bill so she is currently up to date with BC Hydro. She still has to pay the money back that she borrowed and keep her monthly hydro bills of \$114 up at the same time.

The ministry' relied on its reconsideration decision.

## 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 had never had an "over-usage" charge on her hydro account before and it was unexpected to her. The advocate argued in the Request for Reconsideration that the standard by which to measure whether the expense was "unexpected" is a subjective standard, or whether the expense was unexpected solely in the mind of the appellant. The advocate argued that the standard is not an objective one that would ask whether this kind of expense would be unexpected to a reasonable person. The advocate argued that the appellant stated that she was "dumbfounded" when learning about the bill adjustment in May 2012 since she had been paying between \$35 and \$70 per month for a full year and had grown to expect this to be her monthly cost for electricity. The advocate argued that in the period of one month the appellant's personal electricity expenses increased by over 50% and such an increase in expense is unexpected. The advocate argued that the average person has trouble deciphering their electricity bill so it is not unreasonable that someone in the appellant's position, with decreased comprehension skills, would not be able to appreciate the substance of her bills. The advocate argued that although the appellant could have informed the ministry of the unexpected expense, she was determined to handle the cost on her own and expected to be able to do so. The advocate argued that the appellant's inability to afford the costs later on was subjectively unexpected. The advocate argued that if the appellant had expected that she could not afford it, she would have sought assistance from the ministry in June 2012.

The ministry's position is 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 or to obtain an item unexpectedly needed. The ministry argued that the appellant was aware of the hydro over-usage in May 2012 as the bill shows an amount for the cost of energy (\$1,122.56) and monthly installments (\$490), an anniversary date (May 2012) and installment plan payment arrangements of \$95 and \$27.23 made prior to May 2012. The ministry argued that the appellant made additional arrangements with BC Hydro regarding her outstanding debt and was still unable to make all of her payments, and it is not unexpected that failing to make the hydro payments would result in BC Hydro notifying her that her hydro would be disconnected.

The panel finds that it is not disputed that the appellant received regular statements from BC Hydro regarding her use of hydro services at her current residence and that she received the Final Notice of Disconnection on

March 11, 2013; however, the appellant argued that she did not understand the bills and when she received 3 bills at one time in June 2012, the amount of the total expense was unexpected by her. The panel finds that the appellant entered into installment arrangements with BC Hydro prior to May 2012 to pay the difference between the cost of her family's hydro usage and that of the previous tenant, which was significantly higher, as set out in the Statement of Account dated March 29, 2012. The appellant admitted to entering into four different installment arrangements with BC Hydro and the letter dated January 8, 2013 to the appellant specifically states that if any of the monthly payments are not received by the due date, the installment plan will be cancelled and the full amount will be due immediately, that late payment charges will apply, and that failure to pay will result in further credit action including disconnection of service. While the advocate argued that the appellant has decreased comprehension skills, there was no evidence provided in support of this contention other than the fact that the appellant has the status of a Person with Persistent Multiple Barriers to employment, and it was not argued that the appellant is illiterate. The panel finds that the appellant understood that she owed an outstanding amount to BC Hydro, she admits entering into several installment plans to pay this balance and defaulting on the payments so that each plan was cancelled.

Although the appellant may have experienced difficulty understanding how BC Hydro arrived at the total figure for the amount outstanding, the onus is on the appellant as the client of the hydro services, to seek an adequate explanation of the various charges from the provider, BC Hydro. The advocate argued that the appellant's inability to afford the costs later on was subjectively unexpected. However, affordability is also affected by the income available to meet the expense, which can be variable; the appellant admitted that the contributions from her adult daughter for household expenses are irregular and vary in amounts. The panel finds that not being able to afford an expense does not make the expense itself "unexpected," which is the requirement set out in the legislation. 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 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.