

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of April 11th, 2013 wherein the appellant was denied a crisis supplement to pay the outstanding hydro bill under section 57 Employment and Assistance for Persons with Disabilities (EAPWDR) because she did not meet the legislated criteria set out in section 57(1) EAPWDR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed; and, that she did not have resources available to the family unit as set out in section 57(1)(a) EAPWDR.

Further, the ministry determined that failure by the ministry to provide the crisis supplement to pay the outstanding utility bill will not 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* as set out in section 57(1)(b) EAPWDR.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 57

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- BC Hydro statement in the appellant's name dated February 5th, 2013 is two pages.
 - Page one showing balance from previous bill was \$57.99 and with payments in December 2012 of \$80 and in January 2013 of \$100 this resulted in credit balance from the previous bill of \$122.01.
 - Usage from December 15th, 2012 to January 16th, 2013 was 6359 kWh costing \$623.17 and with the security deposit refund, other credits and taxes the final billing was \$432.72.
 - Usage comparison – daily average comparison between February 2012 was 43 kWh compared to 190kWh for January 2013.
 - Page two is divided into two categories - taxes of \$79.15 and Equal Payment – Installment of \$80; Annual Adjustment \$2,311.21 with a \$381.82 credit.
 - Balance is \$2,009.39.
 - Note of billing: Anniversary Date January 2013. With your next bill, your monthly installment changes to \$271.00 based on current price of energy and the most recent years' usage at your premises.

The appellant is a single recipient with Persons with Disabilities designation; receives monthly disability assistance of \$531.42 for support and \$375.00 for shelter minus a \$20 repay for a total of \$886.42 and not \$926.42 as reported in the reconsideration decision. The appellant shares her accommodation and the reconsideration states her monthly rent is \$139.00. On February 14th, 2013 the appellant requested a crisis supplement for \$1,400.00 for assistance with the outstanding hydro bill of \$2,009.39. The ministry confirmed with BC Hydro that the appellant had been contacted in March 2012 by BC Hydro and advised she was utilizing more energy than the previous occupants and BC Hydro advised the appellant that she needed to make monthly installments of \$271.00 instead of the \$80.00 per month. BC Hydro advised the ministry that the appellant stated she was going to get a lawyer and hung up the phone. BC Hydro advised that the lump sum payment of \$2009.39 was not required; that the appellant was not being disconnected and BC Hydro was willing to set up a payment plan to pay the outstanding amount.

On the appellant's request for reconsideration she stated that she did not have \$200+ to pay for hydro each month and doesn't have the \$2,000+ to pay the entire hydro bill. The appellant stated that she should have been informed in the beginning that the hydro would be \$200+ when she signed up for the equal payment plan and not \$80. The appellant stated she had always paid what hydro asked of her at the top of the bill and that she had no idea the arrears were building up until she received the bill on February 5th, 2013. BC Hydro is now asking her to pay \$480.00 each month.

Before the hearing commenced the appellant submitted the following documents to the Employment and Assistance Tribunal:

- BC Hydro statements for the month of February 2012 for \$184.56; for July 2012 for \$78.91; and for October 2012 for \$78.91.
 - On the February 2012 billing on page two the following information under Equal Payment is provided:
 - Installment is \$64
 - Status to date:

- Cost of energy	\$113.87
- Monthly Installments	\$ 64.00
 - Anniversary Date January 2013

- On the July 2012 billing on page two the following information under Equal Payment is provided:
 - Installment is \$80
 - Status to date:
 - Cost of energy \$1,480.71
 - Monthly Installments \$464.00
 - Anniversary Date January 2013

- On the October 2012 billing on page two the following information under Equal Payment is provided:
 - Installment is \$80
 - Status to date:
 - Cost of energy \$1,793.89
 - Monthly Installments \$704.00
 - Anniversary Date January 2013.

The ministry did not object to these documents being received by the panel for consideration as new evidence.

The panel finds these documents contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

At the hearing the appellant testified that she moved into her present residence in December 2011 and shortly thereafter arranged for an equal payment plan with BC Hydro to meet her energy needs as she had been using oil heat and it was found to be too expensive. The appellant testified that BC Hydro informed her that her costs for hydro should be between \$60 and \$80 a month and the appellant agreed to pay the \$80 as this seemed reasonable. The appellant testified that each month when the hydro bill arrived she paid the amount at the top of the bill under the heading, "please pay this amount". The appellant testified that when she looked at the hydro bill she thought she had a credit because she saw the letters "cr" but neither she nor her roommate read page two of the hydro bill or any of the other information on the billing. She testified that hydro didn't call her or write to her in March 2012 to tell her that her energy consumption was higher than estimated and she needed to be paying \$271.00 per month versus the \$80. The appellant testified that had hydro contacted her and advised her she needed to pay more she would have made better arrangements than to just receive this bill of over \$2,000.00 in the mail. The appellant testified that when she received this bill she contacted BC Hydro and was informed that her hydro was not being disconnected but she needed to start paying \$480.00 per month to pay off the outstanding balance. The appellant informed hydro that she didn't have \$400+ dollars a month to pay for hydro and didn't have \$2000+ dollars in the bank to pay the hydro bill either. The appellant testified that she did tell hydro she was going to consult with a lawyer but didn't hang up on the hydro representative. The appellant testified that she and her roommate have been living together as a couple for over a year and that her share of the rent is \$346.50 as her common-law has dependants to provide for as well.

The panel finds the appellant's testimony does contain information that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

The ministry relied on the facts as set out in the reconsideration decision.

The panel makes the following finding of fact:

1. The appellant is eligible to apply for a crisis supplement;
2. The appellant has an outstanding energy usage bill with BC Hydro of \$2,009.39 as a result of the annual adjustment between the monthly installment payment and her actual usage;
3. The appellant was on an Equal Payment Plan of \$80 per month with BC Hydro;
4. The appellant is a recipient of monthly disability assistance in amount of \$886.42.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant a crisis supplement under section 57 EAPWDR to pay the outstanding balance on the BC Hydro bill because she did not meet the legislated criteria set out in section 57(1)(a) EAR; that the supplement was needed to meet an unexpected expense or obtain an item that was unexpectedly needed and there were no available resources.

Further, the ministry determined that failure by the ministry to provide the crisis supplement to pay the outstanding hydro bill will not 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* as set out in section 57(1)(b) EAR.

The legislation considered: EAPWDR

Section 57

- (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 ministry argued that the appellant did not meet the legislated criteria to be eligible for a crisis supplement because the hydro bill could not be considered an unexpected expense or an item that was unexpectedly needed. The ministry argued that the appellant was made aware of her high hydro usage/costs in the telephone call between BC Hydro and the appellant in March 2012 and further, that the appellant was informed of her energy usage/costs compared to her monthly installment on page two of the monthly statement she received. The ministry argued that the appellant received monthly disability assistance for shelter and support and had the resources to pay the monthly hydro costs but she let the cost of the hydro build up over time.

The appellant argued that she does not possess good reading and writing skills and only read the top line of the hydro statement advising her to "pay this amount" and did not read the information on page two. The appellant argued the \$2,000.00 hydro bill was unexpected as she did not have any knowledge that she was building up this kind of debt. The appellant argued that she did not have the funds to pay the hydro bill and needs the crisis supplement to pay her share, \$1,400.00.

The ministry's position is that the appellant was informed by BC Hydro in February 2012 that her energy costs were exceeding her monthly payments and that she needed to pay more but the appellant told Hydro she did not have the funds to pay \$271.00 per month; and, that the monthly bills she received also informed her of her energy costs/usage. The appellant's position is that she was not informed by BC Hydro of her energy usage/costs in February 2012 but she did acknowledge in her testimony that she spoke to Hydro at that time; that neither she nor her roommate read page two of the hydro statement which contained the usage/costs profile.

The panel finds that the payment of the monthly utilities (hydro) cannot be considered an unexpected expense or an item that is needed unexpectedly because the appellant was provided with information by BC Hydro through telephone contact and the monthly hydro bills which outlined her usage/costs and would have informed her of her energy usages and expenses.

Therefore, the panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement

to pay her outstanding hydro bill because she did not meet the legislated criteria that the supplement was required to meet an unexpected expense or obtain an item that was unexpectedly needed was reasonable.

Further, in reference to section 57(1)(a) EAR - regarding resources available to the family unit to meet the unexpected expense or obtain the item unexpectedly needed - the ministry argued that the appellant and her roommate had resources available from the monthly disability assistance received from the ministry to pay the hydro bill but because the appellant was on an equal payment plan and the appellant was not contributing sufficient funds on a monthly basis to cover the hydro usage, this resulted in a severe shortage when the anniversary date for the equalization of payments came due. The appellant argued that it was hydro that informed her that a monthly payment of \$60 to \$80 would cover her needs and that hydro did not inform her otherwise or she would have made better arrangements. The appellant argued that she did not have \$271 to pay hydro on a monthly basis. The appellant provided conflicting testimony to the panel regarding whether she was informed by hydro of her high usage in March 2012 and that she needed to make equal payments of \$271 on a monthly basis to cover her usage.

The panel finds the ministry's decision to determine that the appellant had resources available to pay the hydro bill on a monthly basis was reasonable because she (and her roommate) was receiving monthly support and shelter assistance.

Section 57(1)(b) EAPWDR requires that the minister considers that failure to meet the expense or obtain the item unexpectedly needed will result in imminent danger to the physical health of any person in the family unit, or the removal of a child under *Child, Family and Community Service Act*.

The ministry's position is that the hydro energy to the residence was not going to be disconnected and the appellant did not provide any information to establish that the appellant's failure to pay the outstanding hydro bill would result in imminent danger to the physical health of any person in the family unit. The appellant testified that when she contacted hydro after receiving her annual adjustment bill (\$2,009.39) she was informed that the hydro to the residence was not going to be disconnected.

Neither party provided any evidence that failure by the ministry to provide the supplement (payment of outstanding BC Hydro bill) will result in the removal of a child under the *Child, Family and Community Service Act*. The appellant is a single recipient of disability assistance.

The panel finds there is no evidence that the any member of the family unit will be in imminent danger if the ministry did not provide the supplement to pay the outstanding hydro bill. The panel finds that the ministry reasonably determined that failure to provide a crisis supplement to pay the appellant's hydro bill will not 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 panel finds the ministry's reconsideration decision that the appellant failed to meet the criteria in section 57(1) EAPWDR for a crisis supplement to pay the outstanding BC Hydro bill is a reasonable application of the legislation in the circumstances of the appellant, and accordingly confirms the decision pursuant to section 24(1)(b) and 24(a) of the Employment and Assistance Act.