

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated February 12, 2014 which held that the Appellant did not meet all of the criteria to be eligible for a crisis supplement for utilities as set out in section 57(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) for the following reasons:

- a) the requirement to pay a BC Hydro amount was not an unexpected need as required under s.57(1)(a), and
- b) the Ministry determined that the non-payment of the BC Hydro amount would not result in imminent danger to the appellant's physical health or removal of a child as required under s.57(1)(b)(i).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 57(1).

[REDACTED]

PART E – Summary of Facts

The panel waited 10 minutes to begin the hearing, but the Appellant did not attend the teleconference hearing. The panel received confirmation from the Tribunal that the Appellant had been notified of the date and time of the hearing. Accordingly, under s. 86(b) of the *Employment Assistance Regulation*, the panel heard the appeal in the Appellant's absence.

The Appellant has been designated a person with disabilities and receives monthly disability assistance.

The information before the Ministry at reconsideration included a copy of its file notes on the appellant (3 pages) for the following dates: October 1, 2 and 3, 2013, January 7, 16 & 17, 2014 and February 3 & 4, 2014, as well as January 21, 2013, and February 4, 12, 13, 14 & 19, 2013. The Ministry notes indicate that on October 1, 2013 at 1:14 p.m., the Appellant called the Ministry and advised that she received a Hydro disconnect in the amount of \$809.17 and that she had been making Hydro payments and had paid \$120.00 towards the bill. The Ministry note for October 2, 2013 indicated that the Hydro bill was not a disconnect notice, but a bill for the outstanding amount of \$810.00.

The Ministry's notes for October 2, 2013 (as well as the notes from January and February 2013) indicate that the Ministry previously paid the Appellant's Hydro as a guaranteed supplier through February 2013, but the Ministry cancelled these payments at the Appellant's request as she felt she was not receiving enough monthly assistance. The Ministry had previously provided the Appellant a crisis supplement for \$836.03 for a Hydro disconnect in February 2013. The Ministry's notes from October 2 and 3, 2013 indicate that the Ministry denied the Appellant's request for crisis supplement for utilities "as nothing appears to be unexpected and not a disconnect." These notes also indicate that the Appellant received \$400.00 GST on October 3, 2013 and intended to put this towards her Hydro bill.

The Ministry note from January 7, 2014 indicates that the Appellant had received a disconnect notice and had made arrangements to pay \$331 to Hydro. The Ministry note indicates a Ministry worker contacted Hydro and asked if setting up a guaranteed supplier would avoid disconnection and was told it would not. The Ministry notes indicate that on February 3, 2014, the Appellant requested a crisis supplement for food because she had to spend \$400 on her Hydro bill, but that on February 4, 2014, the Ministry denied her request for a crisis supplement for food with the note, "as per history, client had requested the Ministry stop paying her Hydro over a year ago. Client not paying her Hydro is not unexpected and having to pay the amount of \$400 or face disconnection was not unexpected."

PART F – Reasons for Panel Decision

The issue to be decided is whether the Ministry's decision to deny the Appellant's request for a crisis supplement for utilities on the basis that she did not meet the criteria set out in section 57(1) of the *EAPWDR* is reasonable.

The criteria to be applied by the Ministry on a request for a crisis supplement are set out in section 57(1) of the *EAPWDR* as follows, emphasized by the panel:

- (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 ...

The Appellant's position is that she meets the eligibility criteria to receive a crisis supplement for utilities. In her written submissions with her request for reconsideration, an advocate for the Appellant wrote that the Appellant's need for the crisis supplement for utilities was unexpected because BC Hydro had consistently deferred the Appellant's outstanding balance for two years and "there was no reason for her to believe that that would change." The Appellant's submission on reconsideration also noted that a Ministry worker contacted BC Hydro and asked if setting up a guaranteed supplier would avoid disconnection, but was told no (as indicated in the Ministry note from January 7, 2014). The Appellant's advocate wrote, "if a Ministry worker has a reasonable expectation that BC Hydro would be willing to make an arrangement by "setting up a guaranteed supplier cheque" but having Hydro refuse to do so, then it would follow that [the Appellant] would also find the refusal by Hydro to accept a reasonable payment arrangement to be "unexpected." The Appellant's submissions on reconsideration indicate that she was able to borrow \$500 to put towards the outstanding Hydro arrears in January 2014. The Appellant did not make any submissions that failure to obtain money for utilities would result in imminent danger to her physical health or any person in her family unit or removal of a child.

The Ministry says that the Appellant does not meet 2 of the 3 legislative criteria under subs. 57(1) for a crisis supplement for utilities (the Ministry found that the Appellant was unable to meet the expense as there are no resources available to her, as required by subs. 57(1)(a)). The Ministry says that the Appellant has not established that the expense of her Hydro arrears is an unexpected expense, as required by subs. 57(1)(a). The reconsideration decision states that the Appellant's utilities are an ongoing expense and cannot be considered unexpected. The Ministry noted in the reconsideration decision (and at the hearing) that by asking the Ministry to stop the monthly bill payment directly to BC Hydro in February 2013, this indicates that the Appellant was aware that she was assuming the financial responsibility to pay Hydro on her own and that as a result, her overdue account was not unexpected. The Ministry also noted that the Appellant had received a crisis supplement for utilities for outstanding Hydro arrears and to avoid disconnection in February 2013 (as set out in the Ministry's file notes of February 19, 2013). The reconsideration decision also noted that the Appellant has not provided information to establish that failure to pay the Hydro arrears will result in imminent danger to the appellant's physical health or removal of a child, as required by subs. 57(1)(b)(i).

In order to receive a crisis supplement under section 57 of the EAPWDR, an applicant must meet all three of the criteria set out in subs. 57(1) – if the applicant does not meet one of the three criteria, the crisis supplement will not be provided.

The panel notes that the Ministry had provided the Appellant a crisis supplement for utilities for Hydro arrears and to avoid a disconnect in February 2013 and that at that same time, the Appellant had assumed responsibility for paying her Hydro bills (as opposed to the Ministry remitting a payment directly to Hydro on her behalf on a monthly basis). The panel notes that the Appellant was aware of the outstanding balance and the need to pay down the arrears prior to receiving the disconnect notice (as set out in the Ministry's file notes of October 2013 and in the Appellant's submission on reconsideration). The panel finds reasonable the Ministry's determination that the Appellant has not established that the expense of her outstanding Hydro arrears is an unexpected expense (as required by subs. 57(1)).

The panel further notes that the Appellant did not provide *any* information in any of her submissions about the impact the lack of utilities would have on her physical health or the health of her child or removal of a child, to demonstrate that she met the requirement set out in subs. 57(1)(b)(i).

The panel finds that the Ministry's determination that the Appellant did not meet the requirements of subs. 57(1)(a) and 57(1)(b)(i) was reasonable, as the expense of the Hydro arrears was not unexpected and there was no evidence that the failure to provide the requested crisis supplement for utilities would result in imminent danger to any member of the family unit, or the removal of her child. The panel therefore confirms the Ministry's reconsideration decision.