

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated June 3, 2014, in which the ministry found the appellant did not meet the criteria to receive a crisis supplement for utilities as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Specifically the ministry determined that the requirement to pay a BC Hydro amount was not an unexpected expense and that utility costs are not an item that is unexpectedly needed. The ministry also determined that the appellant had the financial resources available to meet the expense and therefore did not meet the requirements set out under s.57(1)(a), and that non-payment of the BC Hydro amount would not result in imminent danger to the health of any person in the family unit as required under s.57(1)(b)(i).

PART D – Relevant Legislation

Section 5 of the Employment and Assistance for Persons with Disabilities Act (EAPWDA)
Section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)

PART E – Summary of Facts

Neither the appellant nor the ministry was in attendance at the hearing. After confirming that both the appellant and the ministry were duly notified, the hearing proceeded pursuant to section 86(b) of the Employment and Assistance Regulation.

Evidence before the ministry at the time of Reconsideration includes the following:

- The appellant's Request for Reconsideration signed by the appellant May 30, 2014, along with an accompanying letter from the appellant to the ministry providing reasons for her disagreement with the ministry's decision dated May 28, 2014.
- A copy of the appellant's past due BC Hydro bill March 3, 2014, with a due date of March 25, 2014, showing a balance transfer from a previous bill of \$367.94 a current statement from January 9, 2014, to February 27, 2014, for \$656.70 for a balance owing of \$1024.64
- A copy of the appellant's past due BC Hydro bill May 1, 2014, with a due date of May 23, 2014, showing a balance transfer from a previous bill of \$1037.71 a current statement from March 5, 2014, to April 28, 2014, for \$575.80 for balance owing of \$1613.51
- A prescription note from a physician dated May 18, 2014, which states that the appellant's son has a medical condition and needs a nebulizer as part of treatment.

In section 2 of the appellant's Request for Reconsideration completed by the ministry they report that on May 23, 2014, the ministry tried to contact the appellant regarding a BC Hydro bill which she submitted. The bill was for \$1613.51 with a due May 23, 2014. The ministry was unable to contact the appellant on this date and left a message for her to contact them. The file notes indicate a list of question to be reviewed with the appellant when she makes contact with the ministry.

1. The bill submitted was not a disconnection notice, what arrangements were made with hydro to make payments (e.g. equal payment plan)?
2. What resources were exhausted to pay the monthly bill?
3. How much is the appellant's average monthly usage?
4. The ministry also noted that the appellant would need to understand that a crisis supplement for utilities, once issued, counts towards the appellant's cumulative annual limit for crisis supplements.

On May 23, 2014, the ministry called the appellant regarding her request for a crisis supplement on this date the appellant reported that she had not made payments towards her Hydro bill, because of "medical emergencies" and the need to fix her truck. The ministry noted that when payments are not made to Hydro an interruption in service could reasonably be foreseen.

On May 26, 2014 the appellant contacted the ministry and was advised that her request for a crisis supplement for her BC Hydro bill had been denied as the need was neither sudden nor unexpected. The appellant requested reconsideration at this time and reported that she requires hydro for her child's nebulizer.

In the appellant's letter of May 28, 2014, she reports that she has two children with complex medical and developmental issues with both requiring weekly support by therapists and others in the community. The children are currently being seen by a physician and a pediatrician that invokes travelling 40 miles for each visit. On one particular week both children were able to be fit in to see the physician who was assessing them for a possible medical procedure and was also monitoring another medical condition which required extra travel costs. The appellant then goes on to present argument as to why she believes the ministry's original decision was unreasonable which will be dealt with in Part F of this decision.

After the ministry Reconsideration Decision and prior to the hearing the appellant submitted a letter dated June 11, 2014, along with her Notice of Appeal to the Tribunal in which she reports that she feels a need to clarify what the unexpected costs are and also her ability to make payment to BC Hydro. The letter then goes on to provide argument as to why she believes the ministry Reconsideration Decision to be unreasonable which will be dealt with further along in Part F of this decision.

Findings of Fact

- The appellant is in receipt of disability assistance and is eligible to apply for a crisis supplement for utilities.
- The appellant has not received a disconnect notice from BC Hydro.
- The appellant's BC Hydro bill of March 3, 2014, shows a balance transfer from a previous bill of \$367.94 a current statement from January 9, 2014 to February 27, 2014, for \$656.70 for balance owing of \$1024.64 by March 25, 2014. No payment was made by the due date.
- The appellant's BC Hydro Bill May 1, 2014, shows a balance transfer from a previous bill of \$1037.71 a current statement from March 5, 2014 to April 28, 2014 for \$575.80 balance owing of \$1613.51 by May 23, 2014. No payment was made by the due date.
- The appellant has made one payment to her BC Hydro account since receiving her March 3, 2014, BC Hydro statement of \$250.00 on May 29, 2014.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's determination that the appellant is not eligible to receive a crisis supplement on the basis that she did not meet the criteria set out in section 57(1) of EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence. Specifically the ministry determined that the requirement to pay a BC Hydro amount was not an unexpected expense and that utility costs are not an item that is unexpectedly needed. The ministry also determined that the appellant had the financial resources available to meet the expense and therefore did not meet the requirements set out under s.57(1)(a), and that non-payment of the BC Hydro amount would not result in imminent danger to the physical health of any person in the family unit as required under s.57(1)(b)(i). In arriving at their decision the ministry relied upon the following:

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*.

The ministry's position is that the appellant did not meet the criteria to receive a crisis supplement for utilities as set out in s. 57(1) of EAPWDR because the requirement to pay a BC Hydro amount was not an unexpected expense and that utility costs are not an item that is unexpectedly needed. The ministry also determined that the appellant had not received a disconnection notice, had the financial resources available to meet the expense, and that non-payment of the BC Hydro amount would not result in imminent danger to the physical health of any person in the family unit.

In its Reconsideration Decision the ministry argued that not paying the appellant's BC Hydro bill does not constitute a crisis for utilities due to an unexpected expense. Although the appellant states that she has made efforts to pay her hydro bill and her electricity costs are increasing for unforeseen reasons, the ministry contacted BC Hydro and was informed that since her current file was opened March 5, 2014, she has only made one payment of \$250.00 on May 29, 2014. Therefore an outstanding balance is not unexpected nor was her need for the item unexpectedly needed. In addition, the appellant has managed to pay \$250.00 towards her

balance most recently and the ministry argued that she has the financial resources available to make payments on her account; she has chosen not to in the past.

The appellant's position is that she meets the eligibility criteria to receive a crisis supplement for utilities as set out in s. 57(1) of EAPWDR because BC Hydro bills have become an "unexpected expense" in her home leaving her with no financial resources to meet any other unexpected expenses. As a result, when forced to make a choice between paying her BC Hydro bill and having her truck fixed so she could take her two sons to unforeseen emergency medical appointments in another town, she chose not to pay her hydro bill. This resulted in her application for a crisis supplement for utilities.

As to the criteria set out above in s. 57(1)(a) of EAR, the appellant argued in both her letter of May 28, 2014, attached to her Request for Reconsideration and in her letter of June 11, 2014, attached to her Notice of Appeal, that she was unable to pay her BC Hydro bill because of the need to meet a "medical emergency". Both of her children have special needs and were both unexpectedly able to be fit in to see a physician to be assessed for future medical procedures and to monitor their other ongoing medical conditions. The appellant argued that because the ministry requires more lead time to approve medical appointments than she was able to give she was forced to make the decision to use her financial resources to fix her truck and take her children to their medical appointments rather than pay her BC Hydro bill.

The appellant also argued that although she currently has a payment plan arrangement with BC Hydro which requires her to pay \$250.00 every 2 weeks, "it is their plan not mine". This bill has continued to increase due to the poor insulation in her home and despite attempts to use alternative heating the billing amounts have been in excess of \$656.70 in one month and this is not manageable for her family. The appellant argued that despite trying to pay bills and meet the agreement with BC Hydro, the bills are exceeding her resources and have become an "unexpected expense".

The panel finds that the appellant argued that she was unable to pay her BC Hydro bill because she was forced to use her available financial resources to meet a "medical emergency", however, the panel's jurisdiction in this case is limited to determining the reasonableness of the ministry's decision that found the appellant is not eligible to receive a crisis supplement for utilities, and not the merits of the appellant's need for emergency medical services.

The panel finds that while the appellant reports in her letter dated June 11, 2014, attached to her Notice of Appeal, that she currently has a payment plan arrangement with BC Hydro, she argues that, "it is their plan not mine". She further argued that this bill has continued to increase due to the poor insulation in her home and despite attempts to use alternative heating the billing amounts have been in excess of \$656.70 in one month which is not manageable for her family. Furthermore, despite trying to pay bills and meet the agreement with BC Hydro, the bills are exceeding her resources and have become an "unexpected expense". The panel finds no evidence demonstrating that the appellant had ever approached either BC Hydro or the ministry to try and come up with a workable payment plan. On the contrary, ministry records show that when they tried to contact the appellant to discuss this matter their phone call was not returned.

The panel also finds that the two BC Hydro bills submitted by the appellant, one dated March 3, 2014, and the other May 1, 2014, clearly establish that the expense the appellant was requesting a crisis supplement for was not unexpected. These bills provide a history showing several months of non-payment so the appellant would have reasonably expected to see the outstanding balance on her May 1, 2014, BC Hydro bill. The panel also finds that the ministry reasonably determined that the appellant's utility costs were not an item that was

unexpectedly needed but rather one she has continued to utilize on an ongoing basis. In addition, the panel finds that as the appellant has managed to pay \$250.00 towards her balance most recently on May 29, 2014, the ministry reasonably determined she has the financial resources to make payment on her account; she has chosen not to do so in the past. For these reasons the panel finds that the ministry reasonably determined that the appellant does not meet any of the regulatory requirements set out above in s. 57(1)(a) of the EAPWDR.

As to the requirements set out above in s. 57(1)(b)(i), the appellant argued in her letter of May 28, 2014, that had she refused to accept the medical appointments she may have needed to wait for a much later date and that she has been advised that, "hearing issues may be affecting my children's behaviour, development and speech". The appellant also argued that she absolutely can not have her hydro disconnected as her son requires a nebulizer, without which his health is in immediate danger. The appellant submitted a prescription note from a physician dated May 18, 2014, stating that her son has a medical condition and needs a nebulizer as part of treatment to support her argument. Finally, in her letter of June 11, 2014, the appellant argues that, "If I did not attend to the medical appointments I believe this would contribute to ignoring the physical needs of my children and put them at risk.

The panel finds that with the exception of the physicians prescription note dated May 18, 2014, which reports that the appellant's son has a medical condition and needs a nebulizer as part of treatment, no other documental evidence has been presented in support of the appellant's argument to demonstrate how waiting for a later medical appointment could have contributed to ignoring the physical needs of her children or have put them at risk. Furthermore, the panel finds that, as ministry records state, no disconnection notice was submitted by the appellant; therefore, she is not in immediate danger of having her electricity cut off. For these reasons the panel finds that the ministry reasonably determined a failure to provide the appellant with a crisis supplement for utilities will not result in imminent danger to the physical health of any person in the family unit and the appellant has therefore not met the regulatory requirement as set out above in s. 57(1)(b)(i) of the EAPWDR.

The panel finds the ministry's determination that the appellant did not meet the requirements set out above in s. 57(1)(a) and 57(1)(b)(i) was reasonably supported by the evidence and is a reasonable application of the applicable Regulation. The panel therefore upholds the ministry's decision.