

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated May 23, 2014 which held that the Appellant was not eligible for a crisis supplement to pay her hydro bill because she did not meet all of the legislated criteria set out in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) in particular, that it was an unexpected expense. Although the Ministry was satisfied that the Appellant did not have the resources to cover the cost of the utility bill to avoid disconnection and that the disconnection could result in imminent danger to her physical health, the Ministry held that it was not unexpected that a failure to make the payments required would result in having her electricity disconnected.

PART D – Relevant Legislation

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

PART E – Summary of Facts

The documents before the Ministry at reconsideration were as follows:

- The Appellant's undated Request for Reconsideration;
- Fax from the Appellant's advocate dated May 13, 2014 (17 pages) setting out the Appellant's argument. Several pages about radiant panels, energy efficiency, and the power company's bills were attached;
- Power company bills dated: January 22, 2013, March 22, 2013, May 23, 2013, June 24, 2013, July 24, 2013, August 22, 2013, September 24, 2013, and January 27, 2014; and
- Power company's Notice of Disconnection dated June 22, 2014.

The Ministry's information indicated:

- The Appellant is a sole recipient with Persons with Disabilities designation.
- The Appellant receives \$986.42 each month in income assistance, of which \$531.42 is support and \$375 is shelter. The balance is for nutritional supplements and diet allowance.
- In July 2012, the Ministry paid the power company \$324 to prevent disconnection and set up an Equal Payment Plan (EPP) of \$155/month.
- Up until August 2013, the Ministry was paying the \$155/month EPP to the power company on behalf of the Appellant.
- The power company's meter readers were on strike from Spring 2013 until Christmas 2013. During that time, usage was estimated.
- The July 24, 2013 bill indicates that the next bill would reflect an updated equal payment of \$378/month based on the amount of power the Appellant consumed over the previous 12 months.
- The August 22, 2013 power company bill indicated an increase in the EPP to \$378/month.
- In February 2014, the Ministry adjusted the Appellant's shelter costs. At that time, the Appellant advised the Ministry that she did not want the Ministry to increase the monthly payment to the power company from \$155 to the new EPP of \$378 and that she wanted to be able to choose when to make extra payments.
- The Appellant made extra payments in November and December 2013 and January, March and April 2014 for a total of \$550.
- The September 24, 2013 power company bill showed an amount owing of \$604.34.
- The January 27, 2014 power company bill showed an amount owing of \$1,077.74.

In the Appellant's written submission included in her Request for Reconsideration, she stated that:

- the Appellant was in a car accident and was unable to use her wood stove. This caused an increased reliance on electric heaters to heat her home;
- the Appellant's oil furnace broke down and she was unable to fix it causing an increase in her electricity bill;
- it was an unusually cold winter which also increased her use of electricity.

The Appellant stated that she began a renovation of her house in 2012 that is still ongoing. The work on the roof had to be stopped while the power company strike was on because the power needed to be disconnected and that could not be done during the strike.

The panel makes the following findings of fact:

- The EPP of \$155 was not high enough to cover the annual cost of the Appellant's electricity usage;
- The EPP was adjusted to \$378 to reflect the previous year's usage (August 2012 to August 2013);
- The Appellant's hydro usage during the subsequent year (August 2013 to August 2014) was higher due to unexpected circumstances;
- The power company bills confirm the increased usage;
- The Appellant's extra payments (totaling \$550) were not enough to cover the monthly difference between the \$155 paid by the Ministry and the EPP of \$378.

PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision to deny the Appellant a crisis supplement for utilities to pay her hydro bill because the Ministry was not satisfied that her disconnection for failure to pay her bill was an unexpected expense is reasonably supported by the evidence or is a reasonable application of the applicable legislation in the circumstances of the Appellant.

The Appellant provided a summary of her argument by fax dated July 16, 2014. This was provided to all panel members prior to the hearing. Since the Ministry had not received it, a copy was provided to the Ministry by the panel chair for review at the commencement of the hearing. There was no objection to this submission. The panel finds that the submission details the Appellant's argument the Ministry's reconsideration decision was unreasonable. The panel admits it under section 22(4)(b) of the *Employment and Assistance Act* as argument in support of information and records that were before the Ministry at the time the decision being appealed was made.

The relevant legislation is section 57 of the EAPWDR:

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;
 - (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.

In order to be eligible for a crisis supplement, the Appellant must meet the criteria set out in section 57 of the EAPWDR. The requested item must be required:

1. To meet an unexpected expense, or to obtain an item unexpectedly needed

AND

2. The Appellant has no resources available to meet the expense or obtain the item

AND

3. Failure to meet the expense or obtain the item will result in imminent danger to her physical health.

The Ministry acknowledges that the Appellant meets the second and third criteria but states that the first criteria is not met, that the Appellant is not eligible for the crisis supplement because it is not unexpected that a failure to make the payments required would eventually result in her electricity being disconnected.

The Appellant argues that several unexpected circumstances, the power company strike, the delay in replacing the roof, the vehicle accident preventing her use of the wood stove, the particularly cold winter, and the break down of her oil furnace lead to higher reliance on and use of electricity resulted in an unexpectedly high bill despite the fact that she had been making extra payments.

The Appellant further argues in her additional submission of July 16, 2014 that the Ministry acknowledged that a portion of the hydro bill was unexpected and she therefore satisfies the requirement in section 57 of the EAPWDR. It is also her position that being up to date in her payments at the time of her application for the crisis supplement is not a criterion that is found in the regulation and she could not jeopardize her need for appropriate food by paying more on her hydro bills. The Appellant argues that it is unreasonable for the Ministry to impose additional criteria that are not in the regulation.

The panel finds the Ministry's determination that the Appellant was not eligible for a crisis supplement for utilities to pay her hydro bill to avoid disconnection was reasonably supported by the evidence as the panel notes that:

- despite several unexpected circumstances, the Appellant did use the electricity she was billed for;
- the Appellant acknowledged that due to her circumstances she had an increased reliance on electricity; and
- although the power company's strike was unexpected and the amount of electricity she used was more than she anticipated, she has an obligation to pay for electricity usage and that obligation is not unexpected.

The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision.