

### 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 24, 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 utility bill amount is not an unexpected expense and that utility costs are not an item that is unexpectedly needed. The ministry also determined that no financial evidence was presented to confirm that the appellant did not have the resources available to meet the expense as set out under s.57(1)(a). However, the ministry was satisfied that non-payment of the utility amount may result in imminent danger to her physical health as set out in 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

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

- Copies of the appellant's electric bills dated:
  - September 4, 2013, with a due date of September 27, 2013, showing a previous statement amount of \$219.51 a payment of \$76.00 made August 28, 2013, a balance outstanding from a previous bill of \$143.51 an Adjustment to Equal Payment Plan (EPP) of \$2.15, EPP Amount Due \$103.00 with a total balance owing of \$248.66.
  - October 4, 2013, with a due date of October 30, 2013, showing a balance outstanding from a previous bill of \$248.66 an Adjustment to EPP of \$3.72, EPP Amount Due \$103.00 with a total balance owing of \$355.38.
  - February 5, 2014, with a due date of February 28, 2014, showing a previous statement amount of \$580.69 a payment of \$50.00 made January 31, 2014, a balance outstanding from a previous bill of \$530.69 an Adjustment to EPP of \$7.96, EPP Amount Due \$103.00 with a total balance owing of \$641.65.
  - May 8, 2014, with a due date of June 3, 2014, showing a previous statement amount of \$766.32 a payment of \$50.00 made April 30, 2014, a balance outstanding from a previous bill of \$716.32 an Adjustment to EPP of \$10.74, EPP Amount Due \$103.00 with a total balance owing of \$830.06.
  - June 9, 2014, with a due date of July 3, 2014, showing a previous statement amount of \$830.06 a payment of \$50.00 made May 29, 2014, a balance outstanding from a previous bill of \$780.06 an Adjustment to EPP of \$11.70, EPP Amount Due \$186.00 with a total balance owing of \$977.76.
  - Each electric bill contains a statement "Your payment is overdue and you may be removed from the Equal Payment Plan if payment is not received immediately"
- A copy of a Notice of Disconnection sent to the appellant June 13, 2014, showing an outstanding balance of \$977.76 and requesting immediate payment to avoid disconnection. If a payment has not been made the letter provides a toll free number for the appellant to contact the utility to make arrangements to make payment in full
- A copy of a second Notice of Disconnection sent to the appellant June 18, 2014, showing an outstanding balance of \$897.80. If a payment has not been made the letter provides a toll free number for the appellant to contact the utility by no later than Monday June 23, 2014, to make arrangements to make payment in full
- The appellant's Request for Reconsideration signed by the appellant June 19, 2014. In section 3, she writes that she was confused and thought her payments were enough but did not know she was to pay the full amount of the equal payment. She reports that she now has a mental health worker helping her to understand what to do next. She is also working on getting her heat fixed. She reports that her obsessive behaviour and anxiety make her decision making difficult. In conclusion, she reports that the amount owing is far beyond her income.

After the ministry Reconsideration Decision and prior to the hearing the appellant submitted the following:

- In her Notice of Appeal signed by the appellant July 9, 2014, she reports that welfare stopped paying her bill when she started getting CPP and the bill mounted up and, because of her mental illness, she was not used to paying bills. She also states that she is providing her bank statements from January 2014, to July 2014, showing that she does not have the funds to pay the full amount of the bill. She has also reported that she will be sending a letter from a medical specialist to her physician where it states she must use a CPAP every night because of a medical condition and will therefore require electricity. The appellant requested that her appeal hearing be in writing.

- The appellant's bank statements for:
  - January 2014, show: total credits of \$1122.18, debits of \$1119.37 and a balance of \$7.13 January 31, 2014;
  - February 2014, shows total credits of \$1009.17, debits of \$819.47 and a balance of \$182.57 February 28, 2014;
  - March 2014, shows total credits of \$1341.97, debits of \$1484.06 and a balance of \$40.48 March 31, 2014;
  - April 2014, shows total credits of \$1115.83, total debits of \$1152.29 and a balance of \$4.02 April 30, 2014;
  - May 2014, shows total credits of \$1084.17, total debits of \$986.66 and a balance of \$101.53 May 30, 2014;
  - June 2014, shows total credits of \$1009.17, total debits of \$1071.87 and a balance of \$38.83 June 30, 2014; July 4, 2014 to July 7, 2014, shows total credits of \$123.89, total debits of \$102.52 and a balance of \$60.20 July 7, 2014.
- In a letter from one of the appellant's physician's to another, dated March 17, 2014, the physician reports among other things that the appellant has "pulmonary hypertension, which I think relates at least in part to the sleep disorder, and she admits she is not utilizing the CPAP on a regular basis. I have asked her to return to the use of CPAP, and if she is struggling with the use of CPAP, she may have to be reviewed by the respiratory company, to determine whether she has an adequate interface".
- A Release of Information form EAAT0004 - 10/06/01 signed by the appellant July 24, 2014, and faxed to the Tribunal Office July 25, 2014, granting permission to have documents about her appeal sent to her advocate.
- A 4 page document faxed to the Tribunal Office by the appellant's advocate dated August 11, 2014, which contained the following:
  - A note written by the appellant dated August 11, 2014, in which she:
    - Reported that she received her Notice of Appeal July 15, 2014.
    - Reports that she is submitting a "Photocopy of Statement from Welfare, showing it is now only \$105.92.
    - States that "\$186.00 is now deductions for my equal payment plan to Fortis BC. This shows that this can be done, when I was told many times it could NOT be done for me. After many years of having my rent and hydro paid for me by Welfare, this all stopped when I received my first cheque from CPP. I have never had to look after paying bills even when married."
    - Addresses E.A.P.W.D. regulation number 57(1)(a) stating " There are no resources available, see bank statements previously sent. It was unexpected because of my mental illness O.C.D. see letter from my Case Manager at Mental Health."
  - A copy of a letter dated July 28, 2014, from Mental Health & Substance Use, at the appellant's request and addressed, "To Whom it May Concern", confirming that the appellant suffers from agoraphobia and Social Phobia and, in addition, presents with some OCD traits.
  - A Notice of Deposit to the appellant dated July 23, 2014, showing an amount of \$186.00 under "other deductions", and a total cheque amount of \$105.92.

The ministry stated, via e-mail that this matter will be the reconsideration summary provided in the Record of the Ministry Decision.

The panel admitted all of the appellant's written submissions and attached documents under s. 22(4) of the EAA

as they were found to be in support of the records before the minister at reconsideration and particularly because it helped the panel to determine what financial resources were available to the appellant and to provide clarity regarding her medical conditions. The ministry did not object.

Findings of Fact:

- The appellant is a sole recipient of disability assistance and is eligible to apply for a crisis supplement for utilities.
- The ministry paid the appellants bills and deducted them from her disability benefits until the appellant started to receive CPP, at which time the appellant became responsible for paying her own bills.
- The appellant has been diagnosed as having pulmonary hypertension by a physician, a sleep disorder, agoraphobia and Social Phobia and, in addition, presents with some OCD traits.
- The appellant's electricity bills indicate an EPP amount of \$103.00 per month, but only \$50.00 per month in payments, resulting in the balance owing increasing from \$248.66 in September 2013 to \$977.76 on June 9, 2014.
- The appellant has received two disconnect notices from Fortis BC, the first dated June 13, 2014, showing an outstanding balance of \$977.76 and the second, dated June 18, 2014, showing an outstanding balance of \$897.80.
- The appellant's bank statements showing January to June 2014, show an income ranging from \$1009.21 to \$1341.97 per month and expenditures ranging from \$819.47 to \$1484.06 per month, resulting in minimum monthly balances ranging from (\$7.13) to \$100.28.

## 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 utility bill amount was not an unexpected expense and that utility costs are not an item that is unexpectedly needed. The ministry also determined that no financial evidence was presented to confirm that the appellant did not have the resources available to meet the expense as set out under s.57(1)(a). However, the ministry was satisfied that non-payment of the utility amount may result in imminent danger to her physical health as set out in 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 requirement to pay a utility bill amount was not an unexpected expense and that utility costs are not an item unexpectedly needed. The ministry also determined that no financial evidence was presented to confirm that the appellant did not have the resources available to meet the expense as set out under s.57(1)(a).

In its Reconsideration Decision the ministry argued the appellant's request for a crisis supplement does not meet the criteria set out in s.57 of the EAPDR because although the appellant argued that she thought making a payment on her bill each month would prevent her electricity from being disconnected, her monthly EPP amount was not an unexpected expense. As a result of not paying the full amount of her EPP each month the amount owing continued to grow and Fortis BC continued noting the outstanding balance on the appellant's monthly bills and that her payments were overdue. Therefore, the ministry argued, it was not unexpected that eventually Fortis BC would disconnect the appellant's electricity, as she had not been paying off her outstanding balance. In addition the ministry argued that no documental evidence was presented by the appellant demonstrating that she did not have the financial resources to pay her electricity bill on her own and for these reasons she has not met the criteria set out s.57(1)(a) of the EAPWDR. The ministry did acknowledge that non-payment of the utility amount may result in imminent danger to her physical health as set out in s.57(1)(b)(i).

The appellant's position is that, prior to her receiving CPP, the ministry paid her rent and her Fortis bill. As a

result of the appellant's mental illness she was not used to paying bills and did not understand that she was required to make the full payment on her EPP each month. The appellant also argued that she had never had to look after paying bills, even when married, and that the need to pay her Fortis BC bill in full was unexpected because of her mental illness and O.C.D traits. She also argued that she does not have the financial resources required to pay her Fortis BC bill and provided 7 months of bank statements (January to July 2014) demonstrating that she does not have the financial resources to pay off her Fortis BC bill. The appellant also argued in her Notice of Appeal that, per the letter from one of her physicians, she has a sleep disorder and is required to use a CPAP machine and that failure to use this machine would pose an imminent risk to her physical health.

The legislation requires that the expense must be unexpected or to obtain an item unexpectedly needed. The panel finds that the ministry paid the appellant's bills until she started getting CPP and that the appellant has been diagnosed as having a sleep disorder by her physician and Agoraphobia and Social Phobia with some OCD traits, by her CM, Mental Health & Substance Use. However, neither the physician's letters nor any other evidence presented directly supports the appellant's argument that she was unable to manage her bills due to any of her diagnosed medical conditions. The appellant argued that she was confused and thought her payments were enough and did not know she was to pay the full amount of the EPP each month. However the panel finds that the appellant's Fortis BC statements provided for the months of September and October 2013, and for February, May and June 2014, clearly show the amount of the previous statement, the amount of the payment made, the balance outstanding from a previous bill, the amount of the EPP adjustment and the total amount due. Furthermore, the panel finds that as the amount due steadily increased from a low of \$248.66 in September 2013, to a high of \$977.76 in June 2014, the ministry reasonably determined that it would not be unexpected that Fortis BC would eventually disconnect the appellant's electricity because she had not been paying her outstanding balance. For these reasons, the panel finds that the ministry reasonably determined that the crisis supplement requested was not required to meet an unexpected expense or to obtain an item unexpectedly needed as set out above in s 57(1) of the EAPWDR.

The legislation requires that the minister considers the failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit. The panel finds that while the appellant argued in her Notice of Appeal that she requires electricity in order to use her CPAP machine, an argument that is supported by her physicians letter of March 17, 2014, no documental evidence was presented detailing the severity of the appellant's sleep disorder, or any other medical condition she has which might be affected should her electricity be disconnected. For these reasons, the panel finds that the ministry reasonably determined failure to meet the expense or obtain the item may result in imminent danger to the physical health of any person in the family unit. However, in order to meet the requirement, the ministry must be satisfied that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

In conclusion the panel finds the ministry's determination that the appellant did not meet all of the requirements set out above in s. 57(1)(a) to be eligible for a crisis supplement was reasonably supported by the evidence and is a reasonable application of the applicable Regulation. The panel therefore confirms the ministry's decision.