

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated July 30, 2014 which held the appellant was not eligible for a crisis supplement for her hydro bill as she did not meet the requirements of section 59 of the Employment Assistance Regulation (the “EAR”), namely that the appellant required the supplement to meet an unexpected expense or that the item was an item unexpectedly needed and she was unable to meet the expense or obtain the item because she had no resources available pursuant to subsection (1)(a).

PART D – Relevant Legislation

Employment and Assistance Act, section 4; and
Employment and Assistance Regulation, section 59.

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that she was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

The Appellant is a recipient of disability with no dependant(s).

The evidence before the Ministry at reconsideration included the following documents:

Employment and Assistance Request for Reconsideration dated July 17, 2014 with the following attached documents:

1. Hydro bill to appellant dated June 16, 2014 in the amount of \$446.40.
2. Letter from hydro company to the appellant dated June 25, 2014 showing her account was past due in the amount of \$287.

The appellant submitted the following written submissions:

1. The appellant is trying for disability assistance and she has no help paying for transportation to a nearby city;
2. The appellant had to cancel her appointment with a rheumatologist because she could not afford to pay for gasoline to have someone drive her;
3. The appellant had to pay \$60 on one occasion to have someone drive her to the nearby city;
4. The appellant pays for extra medication each month; and
5. The appellant goes to the doctors by public transit 1-2 times per week which costs her \$1.50 and then she goes to get her prescription filled and that costs another \$1.50

Notice of Appeal dated August 11, 2014, the Appellant submitted the following written submissions:

1. The appellant's medical condition is ongoing and has "got severely worse in the past six months" and she has needed a lot more medical attention;
2. The appellant has quit school and she received money to go school and that was used to pay her bills;
3. The appellant applied for transportation to the doctors and was denied;
4. The appellant's migraines have got worse during the summer;
5. The appellant has woke up "throwing up" and had to go to emergency;
6. The appellant in the last six months has been in the ER about 4-5 times a month; and
7. The appellant requires more medication due to her fibromyalgia and migraine headaches and she is required to pay for the medication.

The Ministry did not submit additional evidence on appeal and relied on the Reconsideration Decision.

The panel finds that the additional evidence provided by the appellant in the notice of appeal clarified her situation and was admissible under section 22(4) of the *Employment and Assistance Act* as it was in support of the records before the ministry at reconsideration.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the appellant a crisis supplement for hydro pursuant to section 59 of the EAR is a reasonable application of the legislation in the circumstances of the appellant or is reasonably supported by the evidence.

Section 59(1)(a)(b) of the EAR gives discretionary power to the ministry to provide a crisis supplement to an individual who is eligible for income assistance or hardship assistance providing the individual requires the supplement to meet an unexpected expense or the item is unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available. The ministry must additionally determine that 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.

Section 59 of the EAR states the following:

59 (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*.

(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, and
- (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 income 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.

Ministry's Position

The ministry found at reconsideration that the failure to pay the hydro bill may result in imminent danger to the physical health of the appellant satisfying section 59(1)(b)(i). The ministry concluded, however, that neither the hydro bill nor the appellant's medical condition could be characterized as an unexpected expense or unexpectedly needed as required by section 59(1)(a) and found that the appellant was not eligible for the crisis supplement.

The ministry held that the appellant had received regular hydro bills and that her hydro bill was therefore an expected cost that the appellant was aware of and ought to have properly planned to pay with money she received from income assistance. The ministry noted that the appellant currently receives shelter costs in the total amount of \$705 of which \$375 was for rent, \$155 for hydro, \$75 for phone, and \$100 TV/internet. The ministry submitted that of the appellant's monthly expenses, her rent and hydro are "necessities" and are expected to be paid prior to the appellant paying her monthly phone and TV/internet bills.

The ministry further found that the appellant's medical condition similarly could not be considered unexpected as the appellant had suffered with fibromyalgia and migraine headaches for a considerable period of time. The ministry contended that regardless if the appellant's condition(s) had grown significantly worse over the last six months as contended by the appellant, six months of trips to the ER, the doctor's office and to the pharmacy cannot be characterized as a unexpected expense as it has been an ongoing issue for six months.

The ministry found that the appellant is/was able to meet the expense of her hydro bill as the appellant's income assistance sufficiently covers both rent and hydro and therefore should have been paid with her own funds.

Appellant's Position

The appellant argued that she was unable to pay her hydro bill as a result of additional medical related travel and prescription costs that were associated with the deterioration of her fibromyalgia and migraine headaches over the last six months. The appellant claimed that her current medical condition also forced her to drop out of school which was also a source of financing for the appellant.

The appellant gave evidence at reconsideration that she could not pay her hydro bill on account of the unexpected medical costs and loss of income on account of leaving school. The additional costs included travel expenses for trips to the ER in another city approximately four to five times per month (one occasion the appellant paid \$60 return trip); bus fares in the amount of \$1.50 to the doctor's office 1-2 times per week, bus fare in the amount of \$1.50 to the pharmacy to get prescriptions filled; as well as costs associated with added prescriptions.

Panel Decision

The legislation stipulates, among other things, that in order for the appellant to be eligible for a crisis supplement the recipient must first show that s/he requires the supplement to meet an unexpected expense or that the item was unexpectedly needed and, second, that s/he does not have the resources to pay for the item.

The panel finds that there was insufficient evidence to support the appellant's hydro was an "unexpected cost" or an "item that was unexpectedly needed" as required by the legislation. The panel likewise finds that there was insufficient evidence to support the appellant did not have the resources to pay for the hydro bill with money received from her income assistance.

In order to be eligible for a crisis supplement for hydro, the appellant must first show she requires the crisis supplement to meet an unexpected expense. The appellant argued that it was her increased medical costs that were unexpected which rendered her incapable of paying her hydro bill. The ministry argued that the appellant's hydro bill was not an unexpected expense as she was an existing customer, but argued that the additional medical costs were also not an unexpected expense as the requirement of additional medically related costs had been ongoing for the past six months.

The appellant gave evidence that her medical condition had become "severe" over the past six months and that she had to drop out of school; attend the ER in a neighboring city 4-5 times per month over the last six months; make increased weekly visits to the local doctor's office and pharmacy by city transit, and expend additional money on medication.

The ongoing trips to the ER, hospital and pharmacy, as well as increased cost of medication, however, appear to have been consistent over the last half a year and cannot be considered unexpected given the length of time and frequency of the additional expenses.

The panel finds that the ministry reasonably determined that the hydro bill could not be characterized as unexpected as the appellant is an existing consumer. With respect to the appellant's additional medical costs being the unexpected expense, the panel finds that the ministry reasonably determined

that the appellant's deteriorating medical condition and associated costs have been ongoing and cumulative and cannot be considered unexpected.

The panel also finds that the ministry reasonably determined that the appellant had the resources to pay for her hydro bill. As noted by the ministry, the appellant is given shelter costs of which rent and hydro are to be paid from her income assistance prior to paying other expenses such as her phone or TV/internet. The appellant is provided with sufficient assistance to cover these costs which she chose to pay rather than hydro bill.

For the reasons, the panel finds the ministry's determination that the appellant was not eligible for a crisis supplement for payment of a hydro bill pursuant to section 59 of the EAR was a reasonable application of the legislation in the circumstances of the appellant and confirms their decision.