

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated September 9, 2014 which held that the Appellant was not eligible for a crisis supplement to pay his outstanding utility bill because:

1. the charges were incurred prior to the date that he became eligible for assistance, and
2. he did not meet all of the legislated criteria set out in section 59 of the Employment and Assistance Regulation (EAR), in particular, that it was an unexpected expense.

The Ministry was satisfied that he did not have the financial resources available to pay the outstanding balance when the disconnect notice for non-payment was received and that failure to obtain the utility company's services might result in imminent danger to his family's health.

## PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) sections 26 and 59

## PART E – Summary of Facts

The documents before the Ministry at reconsideration were as follows:

- The Appellant's Request for Reconsideration dated August 27, 2014;

The Ministry's information indicated:

- the Appellant's three person family unit has been on assistance since July 28, 2014;
- in June 2014, the Appellant received a disconnect notice from the utility company requiring a payment of \$1980.86; a \$600 payment was made by the Appellant at the end of June;
- the utility company confirmed that the \$1,479.25 outstanding balance had been incurred prior to July 28, 2014;
- the Appellant previously worked in a full-time auxiliary position doing snow removal but was laid off for the summer;
- in August 2014, the Appellant requested a crisis supplement which was denied.

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

- in the area in which he and his family live, there is no other method of heating or cooling other than electricity;
- because he is unemployed, he has no other means of paying this utility bill; and
- if assistance was provided, he is willing to pay back the amount or surrender a portion of his assistance cheque.

At the hearing, the Appellant stated that the meter readers for the utility company had been on strike for several months and during that time, utility bills were estimated. When the strike concluded, the meters were read and adjustment bills were sent out indicating the actual usage. The Appellant's adjustment bill was much higher than expected.

The Appellant indicated that much of the assistance that he is receiving is being used for medication and costs associated with his spouse's health condition and that her condition and these expenses were not expected.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision to deny the Appellant a crisis supplement because the Ministry was not satisfied that the Appellant was eligible for assistance at the time the expense was incurred nor that paying monthly utility charges 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 relevant legislation is sections 26 and 59 of the EAR:

### Effective date of eligibility

- 26** (1) Except as provided in subsection (2), (2.01), (2.1), (3.01) or (3.1), a family unit is not eligible for income assistance or supplements in respect of a period that occurred before the date the minister determines the family unit is eligible for the income assistance or supplements, as applicable.
- (2) A family unit becomes eligible
- (a) for a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form,
  - (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for income assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
  - (c) for income assistance under sections 6 to 10 of Schedule A on the date of the applicant's submission of the application for income assistance (part 2) form.
  - (d) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (f).]
- (2.01) If the minister decides, on a request made under section 17 (1) [*reconsideration and appeal rights*] of the Act, to provide a supplement, the family unit is eligible for the supplement from the earlier of
- (a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and
  - (b) the applicable of the dates referred to in section 80 of this regulation.
- (2.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement on the earlier of the dates referred to in subsection (2.01).
- (3) If a family unit includes a person who qualifies as a person who has persistent multiple barriers to employment, the family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month in which the minister determines that the person qualifies as a person who has persistent multiple barriers to employment.
- (3.01) If the minister decides, on a request made under section 17 (1) of the Act, that a person qualifies as a person who has persistent multiple barriers to employment, the person's family unit becomes eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of
- (a) the date the minister makes the decision on the request made under section 17 (1) of the Act, and
  - (b) the applicable of the dates referred to in section 80 of this regulation.
- (3.1) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person who has persistent multiple barriers to employment, the person's family unit is eligible to receive income assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the month containing the earlier of the dates referred to in subsection (3.01).
- (4) If a family unit that includes a person who qualifies as a person who has persistent multiple barriers to employment does not receive income assistance at the applicable rate under Schedule A from

the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:

- (a) the date the family unit became eligible under subsection (3) or (3.1), as applicable, for the applicable rate;
  - (b) 12 calendar months before the date of payment.
- (5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.
- [am. B.C. Regs. 304/2005, s. 5; 400/2007, s. 4; 340/2008, s. 1; 48/2010, Sch. 1, s. 1 (f); 264/2013, s. 1.]

### Crisis supplement

**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;
  - (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.

[am. B.C. Reg. 12/2003.]

In order to be granted a crisis supplement, the expense must be incurred after the date the minister determines the family unit is eligible for income assistance as set out in section 26(1) of the EAR and the expense must meet all three of the criteria set out in section 59 of the EAR.

**Effective date of eligibility**

Section 26(1) of the EAR states that an Appellant is not eligible for income assistance in respect of a period that occurred before the date the Ministry determines the Appellant is eligible for the income assistance. The Ministry determined that the Appellant was eligible for income assistance effective July 28, 2014.

The Ministry further determined that, based on confirmation by the utility company, the expense for which the assistance was requested was incurred before July 28, 2014.

**Crisis supplement**

Section 59 of the EAR sets out three criteria that must be met in order for an Appellant to be granted a crisis supplement. The expense for which the crisis supplement is requested 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 his physical health.

The Ministry acknowledges that the Appellant meets the second and third criteria but states that the first criteria, that the crisis supplement is to meet an unexpected expense or obtain an item unexpectedly is not met. The Appellant is not eligible for the crisis supplement because it is not unexpected:

1. that utility charges must be paid;
2. that a failure to make the payment will lead to a disconnection notice; and
3. that the Appellant's income will be reduced due to the seasonal nature of his work with the resulting reduction in the resources needed to make the payment.

Regarding the section 26(1) requirement, the Appellant did not present evidence prior to or at the hearing to address the effective date of eligibility for assistance in relation to the date the utility expense was incurred.

Regarding the section 59(1) criteria, in particular the unexpected nature of the expense, the Appellant argues that the additional adjustment billing for the utility came at a time when most of the family's resources were being put toward paying medical bills for his spouse and that there was not enough money to make ends meet.

The Ministry reviewed the evidence contained in the Reconsideration Decision, pointing out that the expense was incurred prior to July 28, 2014 and therefore the Appellant is not eligible for the crisis supplement.

The panel finds the Ministry's determination that the Appellant was not eligible for a crisis supplement for payment of an overdue utility bill which, if not paid would likely lead to disconnection, was reasonably supported by the evidence as the panel finds that the charges were incurred before the Appellant was eligible for assistance. Further the panel finds that the Ministry reasonably determined that the charges were not unexpected because the utility service was not an unexpected expense, nor was the Appellant's reduced income due to a summer layoff unexpected considering his job duties related to snow removal.

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