

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of October 2, 2014 wherein the ministry denied the appellant a crisis supplement to pay the arrears on the appellant’s hydro bill. The basis for the ministry’s decision was that the appellant did not satisfy 2 statutory criteria as set out in section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation. The ministry held that the expense was not unexpected, and it was not satisfied that the appellant was unable to meet the expense as a result of no resources being available to the family unit.

PART D – Relevant Legislation

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

PART E – Summary of Facts

With the consent of both parties the hearing was conducting in writing in accordance with section 22(3) of the *Employment and Assistance Act*.

The information before the ministry at the time of reconsideration included the following:

- The appellant's Request for Reconsideration dated September 10, 2014, with attached written submission.
- The appellant's hydro bill dated January 16, 2014 in the amount of \$702.40.

In its reconsideration decision, the ministry wrote that:

- The appellant is a sole recipient of disability assistance. She receives a \$35 diet allowance, \$531.42 support and \$375 shelter for a total of \$941.42 each month.
- The appellant advised the ministry on September 9, 2014 that her hydro had been disconnected, and that she had not received a notice of disconnection or any bills or notices from BC Hydro.
- The ministry contacted BC Hydro and was told that the appellant had been sent 9 notices in the past 11 months advising that her account was past due and subject to disconnection.
- The hydro bills and notices had been mailed to the same address to which the appellant's assistance cheques were mailed, and that the appellant had been receiving her assistance cheques.
- The ministry had since October 2011 been paying \$81.29 per month directly to BC Hydro on the appellant's behalf.
- BC Hydro told the ministry that the appellant's outstanding amount due was \$941.42, and that the only payments received on the account were the \$81.29 per month being paid directly by the ministry on the appellant's behalf.

In her reconsideration submission the appellant wrote that:

- Her hydro was cut off.
- There had been a misunderstanding with the ministry and the ministry was supposed to have paid BC Hydro arrears in the amount of \$1,069 on her behalf.
- She cannot pay the hydro bill as her rent is \$700.00 plus \$81.00 for hydro, and she cannot survive on the remaining \$119.00 per month.

The January 16, 2014 BC Hydro bill – which the ministry said was submitted to the ministry by the appellant - shows a past due balance from the previous bill of \$492.06, and current charges of \$210.34 for a total of \$702.40. The bill includes the statement that "Balance payable includes an amount which is payable now...Collection action may include service disconnection."

Neither party provided any further submissions for the purposes of this written appeal.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's October 2, 2014 reconsideration decision to deny a crisis supplement for the appellant's hydro was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation is as follows:

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.

* * *

The appellant's position appears to be that the current hydro arrears accumulated in the past and that the ministry was supposed to have paid the arrears, and then to have continued paying \$81 per month to cover current hydro expenses on an ongoing basis. She argued that after rent and other expenses she does not have enough money to pay for her hydro arrears. In her Notice of Appeal she wrote that it is unjust to expect her to continue without funds she should be entitled to and she is just struggling to survive. She also argued that she received no prior notice that her account was in arrears. Finally, the appellant referred to section 57(7)(d) of the EAPWDR to argue that hydro is "one of the crises in a person's life."

The ministry's position is that the appellant received several notices from BC Hydro advising her that her account was in arrears, so the hydro bill is not an unexpected expense. The ministry also argued that the appellant has not provided any information to confirm that she is unable to get assistance with the hydro bill from her friends, family, landlord or community resources. The ministry argued that it was "unable to clarify" when or what the appellant was referring to regarding an agreement to pay arrears in the amount of \$1,069. (The ministry appears to have misread the amount in the appellant's submission as being \$1,009.)

Panel Decision

Regarding the appellant's argument that the hydro arrears are a carry-over that the ministry was supposed to have paid on her behalf previously, there is no evidence before the panel to support her contention. The hydro bill of January 16, 2014 shows a past due amount of \$702.40 and current charges of \$210.34. This tends to indicate that the arrears of \$941.42 quoted by BC Hydro to the ministry accumulated since October 2011 as a result of the average monthly charge exceeding the \$81.29 that the ministry was paying each month.

As to whether the hydro arrears are "unexpected", the panel accepts the ministry's evidence that the appellant received several notices from BC Hydro advising that her account was in arrears. The BC Hydro bill dated January 16, 2014 demonstrates that the appellant either was aware or should have been aware of the account being in arrears for several months before she approached the ministry for a crisis supplement on September 9, 2014. Section 57(7)(d) of the EAPWDR does contemplate that hydro can in appropriate circumstances be an unexpected expense suitable for a crisis supplement.

However, in the circumstances of the appellant's case the panel finds the ministry's decision on the "unexpected" criterion was reasonable.

Regarding the issue of availability of resources, the legislative scheme is designed so that the shelter allowance includes an allowance for utilities. The general scheme is that each recipient is expected to arrange his or her affairs so as to live within the statutory limits of the benefits provided. In the appellant's situation, there is no evidence that the appellant has taken any steps to manage her hydro expenses or to pursue potential outside sources of funds. The monthly bills would have made her aware that there was an amount of arrears accumulating, but she waited for several months to bring the situation to the ministry's attention and appears to have taken no other steps in the meantime. Based on the foregoing, the panel finds that the ministry reasonably concluded that this criterion was not satisfied.

Conclusion

Since the criteria in EAPWDR s. 57 (regarding the expense being "unexpected" and there being no resources available to the family unit) have not been satisfied, the panel finds that the ministry's decision to deny the appellant a crisis supplement for her hydro bill was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.