

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of November 18, 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 one statutory criterion as set out in section 59(1) of the Employment and Assistance Regulation. While the ministry held that the hydro expense was unexpected, and that failure to meet the hydro expense will result in imminent danger to the appellant’s health, the ministry was not satisfied that the appellant had no resources available to meet the hydro expense.

PART D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) section 59

PART E – Summary of Facts

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

- The appellant's Request for Reconsideration dated November 10, 2014, with attached written submission.
- A BC Hydro disconnection notice and "past due" hydro bill in the amount of \$265.48, both addressed to the appellant and dated December 27, 2013.
- A BC Hydro disconnection notice and "past due" hydro bill in the amount of \$1,357.40, both addressed to the appellant and dated September 22, 2014.
- A "past due" BC Hydro bill in the amount of \$1,558.89 addressed to the appellant and dated October 28, 2014.
- A letter from the appellant's physician dated November 7, 2014 wherein the appellant's physician wrote that the appellant has significant medical problems, and that he needs help with his personal affairs as "recently he forgot about appealing a BC Hydro bill and hence had his power cut off which obviously is not good for his general state of health."
- A CT scan report dated August 29, 2014 substantially confirming the medical problems identified by the physician.

In the Request for Reconsideration and in its reconsideration decision, the ministry indicated that:

- The appellant is a single person family unit in receipt of income assistance since February, 2014. The appellant receives the maximum \$610 per month, from which is deducted the appellant's \$436.20 Canada Pension Plan benefits.
- At the time the appellant started receiving income assistance the ministry issued the appellant an amount of \$131.25 as a crisis supplement to reconnect hydro. The appellant was advised of a process whereby he could ask hydro for a deferral of hydro arrears that had accrued prior to his being approved for income assistance – referred to as a "pre-gain deferral plan." The appellant indicated to the ministry that he had forgotten to follow up with BC Hydro, so the time period for the deferral plan has expired.
- On October 9, 2014 the ministry received a copy of the September 22, 2014 disconnection notice.
- On October 10, 2014 the appellant's daughter called the ministry to advise that the appellant's hydro had been disconnected. The appellant's ex-spouse called the ministry and advised that the hydro bill had gotten so high the appellant simply couldn't pay it, and she was not sure if the appellant was mentally capable of dealing with the matter.
- The ministry contacted BC Hydro and was told that the appellant is not on an equal payment plan, his average usage is \$123 per month, he had made five payments totaling \$562 during 2014, and the pre-gain deferral can only be applied for a maximum of six months, which had already expired.

In his reconsideration submission the appellant stated that:

- His memory is affected by his medical problems, so he does not remember being told about the availability of the pre-gain deferral plan.
- The appellant has been seeking a roommate to share the rent but has not been able to find one.
- The appellant's daughter will move in to share the accommodation and the rent, but can't do so until the hydro is reconnected.

- The appellant requested that the ministry pay off his hydro debt and hookup charges and deduct \$20 per month from his income assistance until the debt is paid.

In his oral testimony the appellant stated that:

- When he first moved into his current rented house he had a roommate to share expenses, but the roommate moved to another community only a month later.
- The hydro bill grew quickly in size over a period of a couple of months because the hot water system in the appellant's rented house sprang a leak which went undetected by the appellant for almost two months. The hot water tank was going almost continuously for that period of time.
- He has made various proposals to BC Hydro to deal with the bill in order to get his power reconnected so his daughter can move in and share expenses, but the company refuses to consider any option except for the appellant to pay the arrears in full.
- The appellant's landlord has helped by accepting less than the \$700 monthly rent.
- The appellant's brother has offered to pay BC Hydro \$500 as part payment of arrears and as an incentive to reconnect the appellant's power.
- The appellant is willing to pay the ministry back if it pays his BC Hydro bill.
- He currently has an extension cord plugged into the neighbour's house so he can run a small heater. There is not enough power to run a refrigerator, so he has to leave his medication in a cooler outside. His health is put at risk because temperature fluctuations may diminish the effectiveness of the medication.

In response to a question from the ministry, the appellant stated that he was aware he was expected to advise the ministry each month of any changes to his circumstances.

In response to a question from the panel, the appellant stated that he couldn't tell the ministry about the change in his circumstances when his roommate moved out because he didn't know what the ministry would do. He said he was afraid the ministry might cut off his income assistance and he simply would not be able to survive on his Canada Pension alone.

Admissibility of Additional Information

In his oral testimony the appellant has provided information which includes additional detail regarding the hydro arrears and the impacts the hydro disconnection is having on him. The panel has determined that this information is consistent with - and tends to corroborate - information that was before the ministry at the time of reconsideration and has accepted it as oral testimony in support, in accordance with section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's November 18, 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:

EAR

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.

* * *

The appellant's position is that he has made several proposals to BC Hydro to deal with the arrears and to get his hydro power reconnected but that the company simply refuses any option except for payment in full. He argued that the bill substantially accrued as a result of an undiscovered leak in the hot water system, and that he is willing to pay the arrears by means of a \$20 monthly deduction from income assistance if the ministry will first pay the arrears by means of a crisis supplement. He argued that getting the power reconnected is an emergency because of his medical conditions, and that once power is reconnected he will be able to have a roommate (his daughter) who will share expenses to help him to live within his means. The appellant stated that he was unaware of the potential for any community resources that may provide assistance with the hydro arrears. Accordingly, he argued that he has used up all his savings and sold almost all his possessions in order to pay his living expenses, and that he simply has no other resources available to him.

The ministry's position is that the appellant has not demonstrated that there are no other resources available to pay the hydro arrears, as required by section 59(1) of the EAR. The ministry stated that there are rental assistance resources available from community service agencies and that the appellant should demonstrate that he has tried them first before applying for a crisis supplement. The ministry also said that the appellant had not advised the ministry that he had lost his roommate, and that in circumstances where the appellant's monthly expenses clearly exceed his ability to pay, the ministry would not normally pay hydro arrears. Finally, the ministry argued that the appellant should have advised the ministry that other resources were available to the appellant such as his landlord subsidizing the appellant by accepting less rent than provided in the tenancy agreement, and the appellant's brother being willing to provide part payment of the hydro arrears.

Panel Decision

The ministry has accepted that in the appellant's circumstances the hydro arrears are an unexpected expense, and that failure to pay the arrears will result in imminent danger to the appellant's physical health. Accordingly, the only legislative criterion in dispute is whether there are other resources available to the appellant to meet the hydro expense.

The evidence demonstrates that the appellant is in difficult financial circumstances. The appellant has acknowledged that there are some resources available from his brother to help with the hydro arrears, though it appears that because of the position being taken by BC Hydro, the brother's offer will be of no benefit unless the appellant can come up with the balance of the arrears owing.

It is unfortunate that the appellant was apparently not previously made aware of community resources that may be available to assist, but in the panel's view it is reasonable for the ministry to expect the appellant to explore those options prior to applying for a crisis supplement. The onus is on the appellant to demonstrate that he satisfies the legislative criteria, including demonstrating that no other resources are available to him as required by section 59(1) of the EAR.

Conclusion

The panel acknowledges the difficult circumstances in which the appellant finds himself. However, since the criterion in EAR section 59 (regarding there being no resources available to the family unit) has not been satisfied on the balance of probabilities, the panel finds that the ministry's decision to deny the appellant a crisis supplement for his hydro bill was a reasonable application of the applicable enactment in the circumstances of the appellant. The ministry's decision is confirmed.