

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "Ministry") reconsideration decision of April 14, 2015 in which the ministry denied the appellant's request for a crisis supplement to pay her outstanding hydro bill. The ministry determined that the appellant was not eligible for a crisis supplement as she did not meet the requirements as per Section 57(1)(a) and 57(1)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) which require that:

- The crisis supplement is needed to meet an unexpected expense; and
- The appellant is unable to meet the expense because there are no resources available; and
- Failure to meet the expense will result in imminent danger to the physical health of any person in the family unit, or removal of a child under the Child, Family and Community Service Act.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPDWR) Section 57(1)(a)(b)

PART E – Summary of Facts

The evidence before the Ministry at the time of reconsideration included:

- The appellant is the sole recipient of Persons with Disabilities benefits.
- The appellant receives \$531.43 support and \$375 shelter minus a \$20 repayment for a total of \$886.42 disability assistance each month.
- The appellant's monthly rent is \$750 and does not include utilities.
- The appellant has been residing at her current residence since September 1, 2014.
- November 4, 2014 – the appellant made a payment of \$79.30 to BC Hydro, for the period of August/September and September/October.
- December 7, 2014 – the appellant received a cheque and layoff notice from her employer.
- December 19, 2014 – the appellant received a hydro bill for two months for the amount of \$362.62.
- February 25, 2015 – the appellant received a notice to disconnect from BC Hydro for failure to pay an outstanding hydro bill in the amount of \$362.62.
- March 4, 2015 – the appellant contacted the Ministry to request a crisis supplement for utilities.
- March 10, 2015 – the appellant submitted the disconnect notice dated February 25, 2015 to the Ministry. A Ministry worker subsequently contacted BC Hydro regarding the disconnection notice and was advised the full amount due was \$803.23, all of which was for the cost of energy used. BC Hydro also confirmed that an equal payment plan would amount to \$113 per month.
- March 24, 2015 – the appellant was advised of the Ministry's decision to deny the request for a crisis supplement for utilities.
- April 7, 2015 – the Ministry received the Request for Reconsideration in which the appellant states:
 - The hydro bill for two months – August/September and September/October – was \$79.30.
 - On December 7, she received a cheque and was laid off unexpectedly, as she had been told the restaurant would be open all winter.
 - On December 19, she received a hydro bill for two months totaling \$362.62.
 - Her house will need to be winterized for next year (electric heat).
 - She needs to find a roommate.
 - She needs to find another job that doesn't stop for winter.
 - She didn't expect a hydro bill four times as expensive as her first bill and didn't expect to be laid off.
 - She is working again and will take steps to not be surprised next year – first step, equal payments.
- April 14, 2015, the Ministry denied the appellant's request for a crisis supplement.

On April 24, 2015, the appellant submitted a Notice of Appeal in which she submitted: "They said that my hydro bill was expected and that I should have made some payment. Two things were unexpected: I was layed off after only 4 days work so had \$200 (to buy food for a month & pay car insurance because could be called in to work) and hydro bill was more than 4 times more expensive."

At the hearing, the appellant provided further details which corroborated her previous written testimony that are admitted pursuant to section 22(4) of the Employment and Assistance Act as being

in support of information before the Minister at the time the decision was made.

At the hearing, the appellant stated that she understands and accepts that the hydro bill was not an unexpected expense and that the bill would be higher in winter months. However, losing her job at the beginning of December without being given any notice after she had been told she would be working three days a week throughout the winter months was unexpected.

Also unexpected was that the hydro bill she received in the middle of December was four or five times the amount of the first bill she received in October.

When asked if she contacted BC Hydro after receiving the December bill to make payment arrangements, the appellant stated she did not because she had to budget to pay any amount.

At the hearing, the appellant stated that when she was laid off in December, she had only \$206.00 in her bank account, and she had to buy food and pay for car insurance because she needed her vehicle for work. It was impossible to make a hydro payment and still live.

When asked if she had attempted to obtain assistance from other sources, the appellant explained that her brother and mother are ill and not able to help her financially, and, as a newcomer to town, she does not know anyone who might help. She did not seek assistance from her employer or any social organization.

The appellant explained that money is beginning to trickle in as she is now working four hours a day, five days a week. She has made an arrangement with BC Hydro to make equal monthly payments of \$113.00, but her payments are going toward the past due amount and not toward current charges. As a result, her current charges are becoming overdue.

She reiterated that she will take on a mission to make her accommodation more affordable by taking on a roommate and asking the landlord if he will winterize the house.

At the hearing, the Ministry referred to the reconsideration decision summary as its appeal submission and did not introduce any new evidence.

The Ministry further stated that the first responsibility of any individual in such circumstance as the appellant is to negotiate a payment plan with hydro in order to avoid the possibility of disconnection. The appellant did not contact BC Hydro until March by which time the amount due was more than \$800.00.

The Ministry stated that the appellant did not provide any information concerning her efforts to obtain assistance from family, friends, community resources or her new employer.

Regarding the requirement that failure to provide the crisis supplement will result in imminent danger to the appellant's physical health, the Ministry stated that BC Hydro did not disconnect the power and the appellant has now negotiated a payment plan to avoid disconnection.

When asked by the panel to clarify its interpretation of 'unexpected', the Ministry stated that it does not disagree the layoff was unexpected as argued by the appellant. However, the nature of disability

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assistance is that individuals should be able to live within that amount; the intent of disability assistance is to provide a safety net in case an individual is not able to work. The appellant's current level of living expense is not sustainable and leaves her in a continuing position of hardship.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the appellant a crisis supplement to pay an outstanding hydro bill for failing to meet the legislative requirements of Section 57(1)(a) and 57(1)(b) of the EAPDWR is a reasonable application of the legislation in the circumstances of the appellant or is reasonably supported by the evidence.

Section 57(1)(a) of the EAPDWR gives authority to the Ministry to provide a crisis supplement to a person who is eligible for disability assistance or hardship assistance providing the supplement is needed to meet an unexpected expense or item and providing the person is unable to meet the expense or obtain the item because there are no resources available.

Section 57(1)(b) requires the Ministry to consider whether 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 or result in the removal of a child.

Section 57(1)(a)(b) of the Employment and Assistance for Persons with Disabilities Regulation states:

(A) 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*.

In the Reconsideration Decision, the Ministry stated that the request for a crisis supplement for utilities to pay the outstanding hydro bill does not meet the criteria under section 57 of the EAPWD Regulation. The panel notes the ministry's information that the appellant is eligible for disability assistance and therefore meets that requirement in section 57(1) of the EAPWDR.

Unexpected Expense

The Ministry argued that the appellant's hydro bill cannot be characterized as an unexpected expense as the last payment the appellant made to BC Hydro was on November 4, 2014 for the amount of \$79.30. As a result, it was not unexpected that the appellant would receive a notice of disconnect on February 25, 2015 for failing to pay the hydro bill of \$362.62, or that the amount owing had increased to \$803.23.

In addition, the Minister was not satisfied that it would be unexpected that the hydro bill would increase in cost over the winter months, especially since hydro is the method used by the appellant

for home heating.

The appellant argued that it gets down to a matter of how to interpret 'unexpected.' The appellant argued that it was unexpected that she would be laid off from her work as she had been told the restaurant would be open all winter, and it was unexpected that her December bill from BC Hydro for two months would be \$362.62 - four times as expensive as her first bill.

Section 57(1)(a) of the EAPWDR describes 'unexpected' in the context of 'an unexpected expense or an item unexpectedly needed'. It does not describe an unexpected event in an individual's personal life such as the appellant's job loss that in and of itself did not result in an unexpected expense. Whether working or not, the appellant used hydro in her home and had received and paid hydro bills in the past. Therefore the Ministry reasonably determined that in the appellant's circumstances a bill for hydro use cannot be considered an unexpected expense.

No Resources Available

The Minister was not satisfied that the appellant did not have the resources to pay the hydro bill as the appellant did not provide any information to advise whether she had exhausted the assistance of family, friends, community resources or her new employer.

The appellant argued that as a result of her unexpected job loss, she had limited funds that had to be used for food and car insurance – therefore was unable to make a hydro payment. She explained that her family was unable to help and she didn't know anyone else she could ask. At the hearing, the appellant confirmed that she had no family members who could help and did not know anyone in town to ask and she had not sought the assistance of her employer or any community resources.

The appellant continued to use power throughout the winter months and although she received a bill in December, she did not make a payment of any amount or attempt to negotiate payment arrangements until March until hydro threatened disconnection. She also acknowledged that she had not exhausted all possible resources of financial assistance in her community.

Imminent Danger

The Minister was not satisfied that failure to provide the appellant with the crisis supplement would result in imminent danger to her physical health. "Imminent" denotes a sense of urgency. At the time of the Reconsideration, the Minister was not aware that the hydro had been disconnected and that the appellant had not been able to negotiate any type of payment plan with BC Hydro to avoid disconnection.

At the hearing, the appellant acknowledged that her hydro had not been disconnected nor is she under threat of disconnection because she is currently making monthly payments.

The Ministry additionally found that the appellant's hydro has not been disconnected and unable to negotiate a payment plan to avoid disconnection, and therefore is not in imminent danger. The appellant agreed that there is no disconnection notice pending.

Conclusion

The panel finds the Ministry reasonably determined that the requested crisis supplement is not

required to meet an unexpected expense; there is no evidence to confirm that the appellant has no resources available and failure to provide the supplement will result in imminent danger to the appellant's physical health.

The panel therefore finds the Ministry's determination that the appellant was not eligible for a crisis supplement for payment of her hydro account was reasonably supported by the evidence and confirms the decision.