

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 9 March 2015 determined that the appellant was not eligible for a crisis supplement for hydro fees because the request did not meet all the criteria set out in s. 59(1) of the Employment and Assistance Regulation. The ministry determined that the information provided did not establish that the requested amount was required to meet an unexpected expense or unexpected item of need, that the appellant did not have alternate resources available and that failure to obtain hydro will result in imminent danger to the physical health of the appellant.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), s. 59.

PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- The appellant is a single employable person who is provided monthly income assistance in the amount of \$610, of which \$375 is shelter allowance.
- The appellant's shelter costs are \$890 per month, of which \$810 is rent.
- A BC Hydro invoice dated 26 February 2015 to the appellant indicated a "past due" of \$276.41 and that collection action may include service disconnection.
- A 1-page letter from BC Hydro to the appellant dated 5 March 2015 titled "Disconnection Notice for Total Amount Owing of \$97.47" indicated that to prevent disconnection this full amount had to be paid.
- On 30 March 2015 the appellant contacted the ministry to request a crisis supplement for utilities, namely hydro, stating that he had received a disconnection notice on 5 March 2015 and he did not pay it. He stated that on that day hydro was disconnected and indicated he had made his last hydro payment a few months ago, choosing to pay his phone and internet bill instead.
- In his request for reconsideration dated 4 April 2015, the appellant indicated that he was in a public place when he called the ministry and could not provide as much information as he would have wished. He indicated that the ministry had stated many times that he was required to find employment, which he was doing by internet from his home. He chose to keep his phone and internet running at the time since taking the bus and going to a library or employment centre also cost money. Because of the time he did not pay his bills, the amount to pay was then too much for him to afford.

In his Notice of Appeal dated 21 April 2015, the appellant indicated that he chose to pay for his phone and internet hoping he would be employed full time before hydro would be disconnected. He only owed \$97.47 when power was disconnected on 31 March 2015 and he cannot pay it and his rent is \$810 per month.

At the hearing the appellant testified that he had terminated his previous employment in November 2014 and had not had any employment since, despite having looked persistently for a job, including working with a BC employment program contractor. His hydro was disconnected once before but he had made arrangements to pay and it was restored. He confirmed he had no electricity at the time of the hearing since it was disconnected on 30 March 2015 and that he was going out for meals to friends or other places as he could not cook or keep food in his refrigerator. He was concerned that the building management company would send him an eviction notice and then evict him if hydro is not restored because it was a condition of his lease agreement. His phone bill used to be \$60 prior to disconnection but now is \$40 per month and his internet bill was also \$60 per month but he cancelled it when his electricity was disconnected. He testified that the disconnection was a threat to his mental health as he had difficulties dealing with this situation. He stated he had no other sources of funds as his family members also struggle to make ends meet and his father has a serious illness. He confirmed receiving a monthly shelter allowance of \$375 and \$235 support allowance for a total of \$610. Before the hearing, the appellant had also submitted a BC Hydro invoice showing that his account was closed on 30 April 2015, the previous amount owing was \$292.82 and that his bill had increased by \$4.14 due to late payment charges to \$302.96 as of 5 May 2015.

The ministry stood by its position at reconsideration, noting that the appellant had previously been

provided crisis supplements for shelter and for food.

The ministry did not object to the admissibility of the additional documentary evidence presented by the appellant. The panel determined that the additional oral and documentary evidence was admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration, providing more information tending to corroborate that evidence.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that determined the appellant was not eligible for a crisis supplement for hydro fees because the request did not meet all the criteria set out in s. 59(1) of the EAR was either a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that the information provided did not establish that the requested amount was required to meet an unexpected expense or unexpected item of need, that the appellant did not have alternate resources available and that failure to obtain hydro will result in imminent danger to the physical health of the appellant.

The applicable legislation in this matter is section 59 of the EAR:

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*...

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:...

(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...

(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: ...

(d) hydro.

The appellant argued that this expense was unexpected because he was certain he would obtain employment before his electricity would be disconnected and had prioritized his phone/internet bills as requested by the ministry to secure employment. As a result he expected to get a job before disconnection and since it did not happen, he argued this was unexpected. As a result, he was unable to pay for the hydro expense at all as well as the additional overdue charges. He also argued that his mental health was in imminent danger as well as his physical health because he could not cook meals, store food in his refrigerator and he had to go out for his meals. Finally, he argued that he had no alternate resources to pay this bill since the members of his family had their own difficulties and could not help him.

The ministry argued that the hydro bill was not an unexpected expense because the appellant had

opted to pay for his phone and internet bills instead of hydro, that the debt owed had increased over a few months and the appellant received prior notice of the increase in costs and of potential disconnection. The ministry further argued that there was no evidence that the failure to pay for his hydro bill would result in imminent danger to his health and that there were alternate resources to pay his bills. Also, the ministry argued that his rent was excessive compared to his full shelter allowance.

Decision:

Unexpected expense:

The panel notes that hydro monthly invoices are an expected expense when a household is connected to BC Hydro. In this matter, it was a question of priority for the appellant as he expected to secure employment and using the internet and being able to phone potential employers were essential for doing job searches; with a job he would have paid his hydro bill before disconnection. In the panel's view, the ministry was reasonable in concluding that the fact that the appellant did not secure employment and could not pay his bills does not make a routine monthly bill an "unexpected expense". The evidence also shows the appellant had been warned of the potential increase costs as a result of disconnection and a reconnection charge as a result of failure to pay his bills can also not be considered "unexpected". The panel finds the ministry reasonably determined the expense in itself was not unexpected and that the appellant did not meet this criterion.

Imminent danger to health:

The panel acknowledges that life in today's world may be difficult without electricity and that it can have a significant impact and notes that the legislation recognizes that at s. 59 (7) of the EAR which provides an exception to supplement amount limits for supplements including hydro set out in subsections (4)(b) and (5). However, no evidence was presented to demonstrate the imminent threat to the appellant's physical health as required by s. 59 (1)(b)(i) of the EAR. The panel notes that there is a possible eviction, which would mean that the appellant may have to move to some other accommodations but he did not provide any evidence of imminent threat to his physical health. The appellant mentioned some impact on his mental health but that is not confirmed by medical evidence and is not relevant to this criterion as it is clearly the physical health that is in issue. Thus, the panel finds the ministry reasonably determined that the evidence was not sufficient to demonstrate an imminent threat to the appellant's physical health.

No alternate resources available:

When comparing the appellant's monthly shelter allowance (\$375) to his rental costs (\$810) the panel acknowledges that the appellant has difficulties meeting his payments, even including the total assistance provided (\$610). The panel does not consider it reasonable for the appellant to expect the ministry to augment his shelter costs when he continues to reside where the rent is far in excess of the monthly shelter rate. The panel notes that a more modest rent could provide the appellant with alternate resources to pay for his hydro and finds that the ministry reasonably determined that the appellant had not met this eligibility requirement.

Conclusion:

Therefore the panel finds the ministry's decision was reasonably supported by the evidence and was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.