

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the Ministry) reconsideration decision dated April 15, 2015 in which the Ministry denied the Appellant's request for a crisis supplement for utilities to pay her outstanding hydro bill. The Ministry determined that the Appellant's request for a crisis supplement did not meet the criteria in section 57 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The Ministry found that the following criteria were not met:

1. Section 57(1)(a): The family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed;
2. Section 57(1)(a): The family unit is unable to meet the expense or obtain the item because there are no resources available; and
3. Section 57(1)(b): The minister considers that 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 removal of a child under the *Child, Family and Community Service Act*.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR - section 57

PART E – Summary of Facts

The evidence before the Ministry at the reconsideration consisted of:

1. A Request for Reconsideration signed by the Appellant on April 15, 2015 in which she stated that she doesn't have the funding for the hydro due dates. She will be discussing her high power costs with the manager at her residence and have him check what he can do to determine why her power is so much higher than other units. She has also arranged for the hydro company to assist with any power issues. She feels that something is wrong at her residence because she is very power conscious and cannot believe how high her bill is. She is doing her best to fix it.
2. A service request to the Ministry from the Appellant dated January 27, 2015 in which she stated there is no way she can come up with the money for her hydro bill. She recently got oil for the furnace and was not expecting her hydro bill to be so high. She had to run electric heaters until she got help with oil. She is hoping that hydro will not cut her off before she can get help with her bill.
3. A letter to the Appellant from the utility company dated March 13, 2015 stating that her home qualifies for a free Energy Conservation Assistance Program. A representative will schedule installation of basic energy efficient products and provide relevant assessments and energy saving tips.
4. A letter to the Appellant from the utility company dated March 5, 2015 regarding Payment Arrangements for an Installation Plan. Such arrangement for the outstanding amount of \$1,013.84 begins on March 27, 2015 and is payable by installments of \$84.48 per month (final payment \$84.56) until February 29, 2016. A notation next to the March 27, 2015 installment stated that \$176.77 was paid on March 26. The letter further stated that Installments are in addition to regular billing which may have a different due date. Payments are required by the applicable due date in order to prevent disconnection. Missing either the installment plan, or regular billing due dates will result in cancellation of the plan and the total balance owing will be due immediately.
5. Two hydro bills in the Appellant's name:
 - March 23, 2015 for \$182 due by April 14, 2015, indicating a balance of \$1,013.84 owing on the Appellant's installment plan. She was requested to "Please pay your installment plan charges as outlined in our previous letter." Electric charges for the period February 19 to March 19 are \$155.64 and the equal installment payment is \$182.
 - January 8, 2015 for \$564.55 due by January 30, 2015. Transfer from previous invoice is \$88.84 and electric charges for October 17 to December 17, 2014 are \$479.08. The Appellant made a \$75 payment on November 20, 2014.

In its reconsideration record, the Ministry provided the following background information:

- The Appellant is a sole recipient with Persons with Disabilities (PWD) designation.
- She receives \$40 diet allowance, \$531.42 support, and \$375 shelter minus a \$20 repayment for a total of \$921.42 disability assistance each month.
- Her rent is \$375 per month.
- The Ministry and the Appellant arranged a payment plan with the hydro company requiring the Appellant to pay \$182 in monthly installments for current usage, in addition to \$84.48 in

monthly installments until February 29, 2016 for her outstanding debt of \$1,013.84. Her monthly hydro payment totals \$270.84.

- The last payment on the account was for \$75 on November 20, 2014 and there was no disconnection notice issued. The Appellant did not make further payments for hydro until after she received her January 8, 2015 bill.
- On March 6, 2015, the Ministry denied her request for a crisis supplement to pay her outstanding hydro bill of \$1,013.84 (\$564.55 past due, \$88.84 transfer from her past account, and \$360.45 for new charges).
- The Appellant advised the Ministry that she had moved and was not aware of the heating costs for her new residence.
- The Ministry issued two crisis supplements for heating oil on November 28 and December 12, 2014 totaling \$578.75.

With the consent of both parties, the appeal proceeded by way of a written hearing. In an email to the tribunal, the Ministry stated that its submission for the appeal will be its reconsideration summary.

Appellant's additional submission

Subsequent to the reconsideration decision, the Appellant filed a Notice of Appeal dated April 28, 2015 in which she stated that she hopes the Ministry will help with her huge hydro bill so that she will have more money for oil to keep her hydro costs down and to make the home more efficient. The panel accepts this submission as argument, in particular, substantiating the Appellant's position in her Request for Reconsideration with respect to obtaining assistance with her high power consumption and reducing her hydro costs.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision of April 15, 2015 which denied the Appellant's request for a crisis supplement to pay her outstanding hydro bill because her request did not meet the criteria in section 57 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. The Ministry found that the Appellant's request for a crisis supplement did not meet the requirements of an unexpected expense and no available resources under EAPWDR section 57(1)(a). Further, it did not meet the imminent danger to physical health requirement in section 57(1)(b).

The following sections of the legislation apply to crisis supplements:

EAPWDR Crisis supplement:

Pursuant to section 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.

The criteria the Ministry found were not met are addressed as follows:

EAPWDR section 57(1)(a): The family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed

Appellant's position

In her service request to the Ministry the Appellant argued she was not expecting such a high hydro bill because she had just obtained oil for the furnace. She had been running electric heaters until the Ministry approved a crisis supplement for oil but she is very power conscious and could not believe how high her bill was. The Appellant argued that because her hydro bill was on a three month billing cycle she was not aware of the amount until December 17, 2014. She is doing her best to remedy the situation by discussing her high power consumption with the manager for her residence, and having the utility company assist with any power issues they find.

Ministry's position

The Ministry argued that the Appellant's requirement to pay hydro is not an unexpected expense and her outstanding debt from a previous account is also not unexpected. Furthermore, the higher cost she incurred because she heated her home with electric heaters was also not unexpected. The Ministry noted that it provided a crisis supplement for oil on November 28, 2014 and the billing period for the Appellant's hydro account was October 17 – December 17, 2014 as evidenced by her January 8, 2015 bill. The Ministry argued that while the Appellant's heating costs might have been higher due to her use of electric heaters, only a portion of the January bill (approximately one quarter) is attributable to the heaters while she was waiting for assistance with oil. Her current bill (March 2015) is not unexpected as she had already received a hydro bill in January 2015 with higher charges and was aware that her utility costs might continue to be high.

Panel decision

The panel finds that the Ministry reasonably determined that the Appellant's outstanding hydro bill was not an unexpected expense as required under EAPWDR section 57(1)(a). This section authorizes the Ministry to provide a crisis supplement only if the expense or need for an item is unexpected, and if all other requirements in section 57(1) (addressed below) are also met.

As evidenced in the Ministry's background information, the Appellant stated that when she moved, she was not aware of what the heating costs would be. The Ministry noted that she did not ask the owner of the residence (a relative of the Appellant's) what the utility cost would be. Further, she had amounts owing from a previous account that were transferred to the account for her new residence. The Ministry noted that she did not make payments on her hydro account after she received the January 2015 bill.

The panel finds that the Ministry reasonably determined that none of these factors were unexpected. There is no evidence to suggest that the Appellant's hydro rate would remain the same when she moved to a new residence or that the balance from her old account would not be transferred to the new account. Further, as she was running electric heaters until she received oil, she would be incurring additional charges from consuming more electricity. Her need for heat in the winter months

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was not unexpected, especially while she was waiting for oil. Therefore, the Ministry reasonably found that the Appellant's high power bill was not an unexpected expense as required by EAPWDR section 57(1)(a).

EAPWDR section 57(1)(a): The family unit is unable to meet the expense or obtain the item because there are no resources available

Appellant's position

In her Request for Reconsideration, the Appellant stated that she does not have the funds for the payment due dates, and in her Notice of Appeal she argued that if the Ministry would assist her with her outstanding hydro bill, she will have more money for oil (to keep her hydro bills lower) and for making the home more efficient.

Ministry's position

In its reconsideration decision, the Ministry argued that the Appellant had resources from her disability assistance to pay her hydro bill. The Ministry indicated that she receives \$921.42 disability assistance each month. It also noted that the Appellant entered into a payment plan specifically for hydro arrears (which both she and the utility company accepted) where she is to pay \$84.48 in monthly installments and \$182 per month for current usage.

Panel decision

The panel finds that the Ministry reasonably determined the Appellant's request for a crisis supplement for her outstanding hydro bill does not meet the criterion of having no resources available to meet the expense as required by EAPWDR section 57(1)(a). The evidence was that the Ministry issues the Appellant \$921.42 per month which includes a shelter allowance of \$375. The panel acknowledges that the entire shelter allowance is required to pay rent of \$375 per month. Therefore, the hydro obligation would have to come out of the Appellant's support allowance.

Although the Appellant stated that she does not have the funds to pay her outstanding hydro bill, she did not provide any bank statements or financial records to indicate whether she had any of her support allowance available. Further, no information was provided as to whether the relative she is renting the home from could assist her with the hydro arrears.

The panel acknowledges that the Appellant would like to have more money for oil (to avoid the expense of electric heat) and to make her home more efficient; however, she has two hydro obligations at the present time: \$84.48 per month for arrears and \$182 per month for current usage. The installments of \$84.48 per month are a temporary requirement, scheduled to end in February 2016. As no financial records were provided to confirm that the Appellant had no available resources with which to meet the expense, the panel finds that the Ministry reasonably expected that she would use her support allowance, and therefore reasonably found that she did not meet the criterion of having no resources available under EAPWDR section 57(1)(a).

EAPWDR subsection 57(1)(b): 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 removal of a child under the Child, Family and Community Service Act

Appellant's position

In her service request to the Ministry the Appellant was concerned that her hydro could be cut off before she got assistance with her outstanding bill. She was hoping that would not happen.

Ministry's position

In its reconsideration decision, the Ministry argued that the hydro is not being disconnected and therefore it was not satisfied that failing to assist the Appellant in paying the outstanding hydro bill will result in imminent danger to her physical health. Therefore, the eligibility requirement of imminent danger to health in EAPWDR section 57(1)(b) was not met.

Panel decision

Section 57(1)(b) of the EAPWDR requires there to be a direct link between not obtaining the crisis supplement for the requested item and imminent danger to physical health or removal of a child from the home. The criterion is met only if the failure to obtain the crisis supplement to pay the expense will result in imminent danger to physical health, or the removal of a child under the *Child, Family and Community Service Act*.

The panel notes that the Appellant did not provide any information regarding her physical health, nor was her hydro being cut off to put her health in imminent danger. The Ministry was therefore reasonable in not being satisfied the Appellant will face imminent danger if she did not receive a crisis supplement to pay her outstanding hydro bill. The Appellant's statement that she wanted to get help with her outstanding bill before her hydro was cut off indicates a future event, not an imminent danger to her physical health. The panel therefore finds that the Ministry reasonably determined that the Appellant did not provide information to confirm that the failure to receive a crisis supplement for her outstanding hydro bill will result in imminent danger to her physical health pursuant to EAPWDR section 57(1)(b).

Conclusion

The panel finds that the Ministry's reconsideration decision finding the Appellant ineligible for a crisis supplement for her outstanding hydro bill because her request did not meet the criteria in EAPWDR section 57(1) was reasonably supported by the evidence. The panel confirms the Ministry's decision.