

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (Ministry) dated May 11, 2015 in which the Ministry denied the Appellant's request for a crisis supplement for utilities. The Ministry found that the requirements of Section 59(1) of the Employment and Assistance Regulation had not been met because the Appellant's requirement to pay the outstanding amount of her utility bill was not unexpected, that she had not satisfied the Ministry that she had no resources with which to pay the outstanding balance and that the Ministry was not satisfied that failure to provide the funds to reconnect the electricity would result in imminent danger to the Appellant's health.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 4

Employment and Assistance Regulation (EAR) Section 59

PART E – Summary of Facts

Information before the Ministry at reconsideration included:

- The Appellant's Request for Reconsideration, with attachments, dated April 17, 2015.
- A copy of a bill from BC Hydro dated May 8, 2013, in the amount of \$63.59, with a credit balance of \$27.86 from the previous bill.
- A copy of a bill from BC Hydro dated July 9, 2013, in the amount of \$112.42, with a past due balance of \$63.59 from the previous bill.
- A copy of a bill from BC Hydro dated Sept. 9, 2013, in the amount of \$159.22, with a past due balance of \$112.42 from the previous bill.
- A copy of a bill from BC Hydro dated Nov. 7, 2013 in the amount of \$119.23, with a notation titled "Installment Plan" and an entry "Transfer amount to installment plan" in the amount of \$159.22.
- A copy of a bill from BC Hydro dated Dec. 9, 2013 in the amount of \$120.34, with a notation "Balance owing on installment plan is \$66.35. Please pay your installment plan charges as outlined in our previous letter.
- A copy of a bill from BC Hydro dated Jan. 9, 2014 in the amount of \$179.71, with a notation "Status to date: cost of energy \$234.62. Monthly installments \$90.00." There is a past due balance of \$120.34.
- A copy of a bill from BC Hydro dated Feb.7, 2014 in the amount of \$458.82 with a past due balance of \$179.71. There is a notation "Equal Payment. Your plan is cancelled."
- A copy of a bill from BC Hydro dated Mar. 10, 2014 in the amount of \$602.19 with a past due balance of \$458.82.
- A copy of a bill from BC Hydro dated May 8, 2014 in the amount of \$835.62 with a past due balance of \$602.19.
- A copy of a bill from BC Hydro dated July 10. 2014 in the amount of \$43.35 with a notation "This is an adjusted bill and replaces any bill(s) you may have received after May 8, 2014. Payments of \$889.14 and \$83.48 were made.
- A copy of a bill from BC Hydro dated Aug. 8, 2014 in the amount of \$36.87 with a notation "Equal Payment. Installment \$77.00".
- A copy of a bill from BC Hydro dated Sept. 9, 2014 in the amount of \$30.39 with an installment payment of \$77.00.
- A copy of a bill from BC Hydro dated Oct. 8, 2014 in the amount of \$23.91 with an installment payment of \$77.00.
- A copy of a bill from BC Hydro dated Nov. 7, 2014 in the amount of \$77.00.
- A copy of a bill from BC Hydro dated Dec. 8, 2014 in the amount of \$130.09.
- A copy of a bill from BC Hydro dated Jan. 8, 2015 in the amount of \$343.98 with a past due amount of \$130.09.
- A copy of a bill from BC Hydro dated Feb. 6, 2015 in the amount of \$398.23 with a past due amount of \$343.98.
- A copy of a bill from BC Hydro dated Mar. 10, 2015 in the amount of \$462.34 with a past due amount of \$374.32.
- A copy of the Appellant's payment history with BC Hydro from May 8, 2013 to Mar. 25, 2015
- A copy of the Appellant's monthly report to the Ministry for the month of April, 2015.
- A copy of the Appellant's monthly report to the Ministry for the month of March, 2015 with a handwritten note "You still owe me at least \$583.31 in excess deductions from my welfare cheques since benefit month July 2014 (cheques issue date 24 Jun 2014) – see my Nov. 6, 2014 notice + unresolved work orders."
- A copy of the Appellant's payment history to BC Hydro from Feb. 7, 2014 to Feb. 6, 2015.
- A copy of the Appellant's monthly report to the Ministry for the month of February 2015 with a handwritten note "You still owe me at least \$583.31 in excess deductions from my welfare cheques

- since benefit month July 2014 (cheques issue date 24 Jun 2014) – see my Nov. 6, 2014 note.”
- A copy of the Appellant’s monthly report to the Ministry for the month of January 2015 with a handwritten note “You still owe me at least \$583.31 in excess deductions from my welfare cheques since benefit month July 2014 (cheques issue date 24 Jun 2014) – see my notice to you dated Nov. 6, 2014.”
 - A copy of the Appellant’s monthly report to the Ministry for the month of December 2014 with a handwritten note “You still owe me at least \$583.31 in excess deductions from my welfare cheques since benefit month July 2014 – see my notice to you dated Nov. 6, 2014.”
 - A copy of the Appellant’s payment history to BC Hydro from Dec. 7, 2012 to Nov. 7, 2014.
 - A copy of the Appellant’s monthly report to the Ministry for the month of November 2014 with a handwritten note “1. Amount corresponds to Oct. 30, 2014 due on account notice by BC Hydro. 2. However, welfare still owes me for excess deductions for BC Hydro since June 2014 – see work order.”
 - A copy of the Appellant’s payment history to BC Hydro from Jan. 18, 2013 to Dec. 17, 2014.
 - A note from the Appellant to the Ministry dated November 6, 2014 titled “Over-deductions for Hydro and child maintenance from regular employment and income assistance benefits Jun 24 2014 to Oct 21 2014.”, with a table with headings “Cheque issue date”, “Benefit Month”, “Toal [sic] deduction amount”, “Supposed Hydro deduction”, “Actual Hydro bill”, “difference in Hydro amount” and “Total due to payee”, with “Total outstanding due to payee/amounts noted in table above \$243.31. 20.00 deduction for supposed child maintenance accounting problem also occurred in benefit months July 2013 – Jun 2014 for an additional underpayment to the payee of 12 x \$20.00 = \$240.00. Crisis grant in June tabulated for July benefit month does not have to be repaid by the applicant and Hydro bill had \$0.00 owing on June 19, 2014 to allow for reconnection. Total outstanding to payee November 6, 2014 \$583.31. Welfare owes this to payee. Payee needs it for clothing, transportation, sundries, etc.”
 - A copy of the Appellant’s payment history to BC Hydro from Nov. 7, 2013 to Sept. 24, 2014 with a handwritten notation “Oct. 2, 2014 worker [name redacted]: next month’s Hydro deduction to be only about \$24.00.”
 - A copy of the Appellant’s monthly report to the Ministry for the month of October 2014 with handwritten calculations in columns headed “Hydro” and “Deduction”. “Debit”, “credit” and “balance”, with a notation “1. Welfare has been overcharging for Hydro since June 2014 (Jun – Sep 2014 = 4 months of excess deductions) 2. For this cheques you still owe me 53.09 [illegible].”

The Ministry observer attended with the consent of the Appellant.

At the hearing the Appellant submitted several pages of documents including Income Tax T1’s showing a low taxable income, bank statements, some excerpts from her Request for Reconsideration and BC Hydro statements. The Ministry had no objection to the admission of these documents, however the Appellant stated at the end of the hearing that she did not wish to leave the documents with the Panel. The Panel was therefore unable to note the details of the material. The Appellant submitted a list of documents she had asked the Ministry to submit. The Appellant stated that the documents demonstrated that she has no resources with which to cover the cost of the utility bill.

The Appellant argued that the matter is a fabricated crisis. She argued that the chain of events shows that this was an unexpected event. She argued that she had tried to resolve the issue several times, however the billing from BC Hydro was incorrect and she was overcharged, but BC Hydro would not acknowledge this and the Ministry would not listen. The Appellant argued that her bills from BC Hydro have become very high and she does not know why. She stated that she thought the equal billing plan was a special deal for welfare recipients, but it appears to be a kind of credit plan that is applied after payment. She stated that she disagrees that her equal monthly payments were \$77.00 and it is more than she used to pay. She stated that she believes she is being overcharged. In response to questions from the Panel, the Appellant stated that she tracked her Hydro bills and told the Ministry in October and November that the bills were out of line. She stated that any credit

balance seemed to be absorbed. She stated that she may have asked the Ministry to keep her monthly deduction for Hydro at \$23.91 because she needs all of her income assistance. She stated that she cannot allow Hydro to deduct any amount they want. The Appellant argued that BC Hydro is not infallible and mistakes have been made in billing, but Hydro said they do not have the final say about the deductions from her cheques. The Appellant stated that she needs to have her bill reduced to what she can afford, and there should be special consideration for a person without Hydro. She stated that she is continuing to make payments to Hydro through deductions from her income assistance, but she wants the bills set at the right rate.

The Appellant stated that the matter of imminent danger to her health has been proved. She stated that being without electrical service is a real risk to her health because she cannot find her way in the dark and she has to use a camp stove to cook. With respect to her ability to pay, the Appellant stated that her bank statements, which she has not submitted to the Panel, show that she has no resources.

The Ministry responded by referring to the Reconsideration Decision which states that the expense is not unexpected, the Appellant did not provide information to confirm that she has no resources to meet the expense and there is no imminent danger to her health. The Ministry stated that the equal payment plan was set up in June, 2014. In November the Appellant requested a reduction in the deductions from her income assistance cheques for Hydro payments and was told by the Ministry that she would be responsible for any additional amount. As a result, the need to pay the unpaid portion of her Hydro bill is not unexpected. The Ministry, in the Reconsideration Decision, stated that since the Appellant has been without electrical service for more than two months, they are not satisfied that there is an imminent danger to the Appellant's health.

The Appellant asked the Ministry how much they think her Hydro bill should be. The Ministry replied that it is not up to them; Hydro bills are set by Hydro. The Appellant asked how the equal payment amount was set. The Ministry replied that it is based on the figure given to them by BC Hydro, but based on the information they have, the Appellant contacted the Ministry and asked that the monthly deduction for Hydro payments be reduced.

In response to questions from the Panel, the Ministry replied that they do not have any influence over BC Hydro billing; the Appellant has to bring them their Hydro bill and the Ministry assists in setting up an equal payment plan, which is based on a number from Hydro.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's Reconsideration Decision dated May 11, 2015, in which the Ministry denied the Appellant's request for a crisis supplement for utilities. The Ministry found that the requirements of Section 59(1) of the Employment and Assistance Regulation had not been met because the Appellant's requirement to pay the outstanding amount of her utility bill was not unexpected, that she had not satisfied the Ministry that she had no resources with which to pay the outstanding balance and that the Ministry was not satisfied that failure to provide the funds to reconnect the electricity would result in imminent danger to the Appellant's health.

Legislation

EAA

Income assistance and supplements

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

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.

Unexpected expense:

The Appellant's position is that the need to pay the outstanding balance of her BC Hydro bill is unexpected, that she has no resources to pay the bill and that failure to pay the bill will result in imminent danger to her health because her electrical service has been cut off. The Appellant argued that her Hydro bills are too high and she has been trying to have them reduced for months. She argued that she was being overbilled and her bills should be set at the right rate. The Ministry's position is that the Appellant asked for the deductions from her income assistance cheques to pay the equal payment plan to be reduced, knowing that she would be responsible for any shortfall; therefore the unpaid portion of her bill is not an unexpected expense. The Panel notes that the Ministry stated that the Appellant asked that the amount of deductions from her monthly income assistance cheques be reduced and the Appellant agreed that she may have done so. In the hearing and in her written submissions, the Appellant referred to overbilling during the year, when the amount of power consumed was less than the equal payment amount for the period. There is evidence that the Appellant may not understand the nature of an annual equal billing plan. As the Appellant's request to reduce the amount of her BC Hydro payments is the cause of the shortfall in her account with BC Hydro, the Panel finds that the Ministry reasonably determined that this was not an unexpected expense or unexpectedly needed.

Resources:

The Appellant stated that she has no resources with which to meet this expense. The Ministry argued that the Appellant did not provide any information to show that she does not have the resources to pay the bill, stating in the reconsideration decision that she did not provide information to confirm that she had exhausted savings or other resources or the assistance of family, friends or community resources. The Appellant provided some information at the hearing to confirm that she has no resources with which to pay the expense, however she was unwilling to leave them for the Panel to review, and did not address the matter of other resources. The Panel finds that the Ministry reasonably determined that they were unable to determine whether the Appellant has resources available.

Imminent danger to health:

The Appellant argued that since her power was shut off she cannot find her way in the dark and she has had to cook on a camp stove, therefore she is in imminent danger to her health. The Ministry argued that because the Appellant has been without electrical service since March of this year; there is no imminent danger to her health.

The Ministry's determination that failure to provide the funds to pay the cost of reconnecting the Appellant's electrical service would not result in imminent danger to her health was based on the fact that her service was terminated in March, 2015 and therefore is not urgent or imminent. The Appellant argued that she has difficulty finding her way in the dark and has to cook on a camp stove; however these are not indications of imminent danger to her health. The Panel finds that the Ministry reasonably determined that failure to meet the expense would not result in imminent danger to the Appellant's health.

The Panel therefore confirms the Ministry's decision as reasonably supported by the evidence.