

**PART C – Decision under Appeal**

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the “ministry”) dated July 14, 2015 that determined that the appellant was not eligible for a crisis supplement to pay his hydro bill because the appellant did not meet all of the criteria required under section 59 of the *Employment and Assistance Regulation* (note that the Reconsideration Decision incorrectly cited section 57 of the *Employment and Assistance for Persons with Disabilities Regulation*). Specifically, the ministry was satisfied that the appellant had no resources to meet the required payment and failure to meet the expense may result in imminent danger to the appellant’s physical health. But the ministry found that the expense was not unexpected.

**PART D – Relevant Legislation**

Employment and Assistance Regulation (EAR) section 59

## PART E – Summary of Facts

The appellant was not in attendance at the start of the hearing. After confirming that the appellant was properly notified, the hearing proceeded pursuant to Section 86(b) of the Employment and Assistance Regulation. The appellant joined the hearing 20 minutes after the scheduled start and explained that he had misunderstood the arrangements. The hearing was restarted.

The documentary evidence before the ministry at reconsideration included the following:

1. A *Notice of Disconnection* dated June 13, 2015 addressed to the appellant advising him of an outstanding balance of \$869.71 that must be paid immediately or the hydro service will be disconnected.
2. The appellant's *Request for Reconsideration* signed and dated by the appellant on July 3, 2015. The appellant provided the following reasons for requesting reconsideration: "I have a doctor's letter on my case file highlighting my disability. I need electrical power to cook/clean and take basic care of myself. I was denied emergency assistance to cover my (hydro) bill. I need this to be paid – please help me with this issue."

The appellant's Notice of Appeal was signed and dated on July 28, 2015 and included a letter from the appellant (undated) which explained that the appellant is struggling financially since he has only \$60 remaining from his monthly assistance payments after he has paid his rent. He acknowledges that his electrical bill is not a "surprise" or unexpected but states that his real surprise was in becoming disabled. He lives in a rural location and is severely limited in his access to medical care. He is in pain and unable to afford the medication he needs. He is unable to feed himself properly and now suffers from anxiety and depression, He is facing homelessness because he applied his July rent money toward his hydro bill so as to avoid disconnection. He complains that he has found the ministry to be unhelpful and has been greeted by apathy and indifference.

At the hearing the appellant explained that his dermatitis developed about a year ago. At the time he was working and the initial symptoms were not severe, but it quickly developed into a much more serious condition. He left work within a few weeks of the onset of his condition and has been unable to work since. He is unable to wear clothes and consequently is confined to his apartment for most of the day and feels cut off from the outside world. He is able to wear clothes and go out for a maximum of 30-60 minutes a day. He can't afford prescriptions medications and doesn't feel they are effective in any case. He explained that he has to wait 6 weeks to see his physician and expects to wait 5 months to get to see a specialist. He is unable to share his apartment (and the cost of his rent) because he cannot wear clothes. He has applied for disability assistance but this has been delayed because of the difficulty in getting appointments with medical practitioners and specialists. He pays \$550 monthly for rent out of the \$610 he receives in assistance payments. His hydro bills are normally \$50-\$60 per month. He explained that there is no assisted living available in his community and he does not have the resources to pay for moving to another community that might have such arrangements. When he first developed his condition he expected that it would be temporary and he would return to paid employment before too long. He now expects that his condition is permanent.

The ministry indicated that they have a letter on file from a medical practitioner confirming the appellant's medical condition. The ministry explained that the crisis supplement legislation does provide for the exercise of some discretion on the part of ministry staff and stated that a supervisor was consulted in the case of the appellant.

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In response to a question from the panel, the ministry clarified that the appellant has not been designated as a person with disabilities since that application has not yet been submitted by the appellant. Accordingly, the reconsideration decision should have referenced section 59 of the *EAR* rather than section 57 of the *Employment and Assistance for Persons With Disability Regulations*.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision that determined that the appellant was not eligible for a crisis supplement to pay his hydro bill because the appellant did not meet the requirements of sections 59 of the EAR was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the need for the hydro payment was not unexpected.

The relevant legislation is as follows:

From the 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*.

...

(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.

### Appellant's Position

The appellant argues that while the hydro bill itself is not unexpected, the severity and duration of his medical condition was unexpected and it resulted in his being unable to meet the expense. He had initially expected that the medical condition would be temporary and that he would return to paid employment. This would have allowed him to pay the outstanding hydro bill. But he now expects that the medical condition is permanent and he has no expectations of returning to paid employment. Due to his medical condition he is unable to share his apartment with another person and accordingly is unable to economize on his rent expenses.

### Ministry's Position

In the Reconsideration Decision the ministry argued that the appellant has failed to satisfy the requirement that the item be unexpected because the appellant had not paid the hydro bill for 7 months and because utility bills are not unexpected. At the hearing the ministry repeated this position but added that the legislation provides for the exercise of discretion by ministry staff. The ministry explained that had the decision been made by another ministry staff member it might have been seen differently.

### Panel Decision

The panel considered the information provided at the hearing by the ministry in regard to the exercise of discretion concerning section 59 of the *EAR*. The panel concluded that the discretion permitted by the legislation only applies when the criteria outlined in section 59(1) of the *EAR* have been met. Since the appellant's hydro bill was not unexpected, the panel concluded that the ministry reasonably determined that the appellant was not eligible for a crisis supplement. The panel also considered the argument advanced by the appellant that what was unexpected was not the hydro bill itself but rather the onset of the dermatitis which rendered the appellant unable to work and thereby unable to earn sufficient income to pay the outstanding hydro bill. But section 59(1) of the *EAR* specifies that the crisis supplement must be required ". . . to meet an unexpected expense or obtain an item unexpectedly needed . . ." and is not intended to address circumstances where an unexpected situation causes someone to be unable to meet an expected expense.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's determination that the appellant has not met the requirements of section 57 of the *EAPWDR* for the provision of a crisis supplement was a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel therefore confirms the ministry decision.