



PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 19 October 2015 determined that the appellant was not eligible for a crisis supplement for hydro back payment because the appellant did not meet any of the three criteria set out in s. 59(1) of the Employment and Assistance Regulation (EAR). The ministry determined that the appellant did not face an unexpected expense, had alternate resources available and that failure to provide hydro back payment will not result in imminent danger to the physical health of the appellant.

PART D – Relevant Legislation

EAR, s. 59.

PART E – Summary of Facts

With the consent of parties, the hearing was conducted in writing pursuant to section 22(3) (b) of the *Employment and Assistance Act (EAA)*.

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

- The appellant is a sole recipient of income assistance with Persons with Persistent Multiple Barriers to employment (PPMB) level. She has an earning exemption of \$500/month.
- The appellant had a rental premise for a small business in her regional centre as of 1 October 2014 and revenues were not as anticipated compared to expenses and she was locked out of her commercial premises on 18 March 2015. She did not close her BC Hydro account as she hoped to be able to continue with her business at the same location. However, the landlord refused to give her access to the premises and resume her business.
- In May 2015, the appellant advised BC Hydro that she wanted to cancel her commercial premises account since she had not had access to the premises since 18 March 2015 and that they should cut off billing as of that date.
- On 13 June 2015, according to BC Hydro, the appellant opened a new hydro account.
- In July 2015, BC Hydro transferred the whole commercial premises account balance of \$1,850 to the appellant's residential account and gave her a disconnection notice.
- On 11 August 2015, the appellant advised the ministry of the \$1,850 business account balance that had been added to her residential account and of the risk of disconnection, requesting a crisis supplement of that amount.
- On 19 August 2015, the ministry contacted BC Hydro and was advised that the appellant had opened an account in November 2014 with an equal payment plan of \$20/month and that BC Hydro advised her with multiple notices that this plan was well below usage and as of 27 February 2015 the appellant had been notified that she owed over \$500 because she was only paying \$20/month. BC Hydro also indicated to the ministry that the appellant was not facing disconnection because a payment plan had been set up with them as of 12 August 2015.
- On 31 August 2015, the appellant advised the ministry that the information provided by BC Hydro was incorrect and that she was still facing disconnection.
- On 4 September 2015 BC Hydro advised the ministry that at the request of the appellant, she had made firm arrangements for full repayment of the total debt via monthly payments of \$180 until 15 July 2016. On that date the ministry denied the crisis supplement.
- In her Request for Reconsideration dated 1 October 2015, the appellant indicated that at some point during this timeframe, her hydro was disconnected and that she had to pay \$159 for reconnection charge and late payment fees.

In an email dated 24 November 2015, the ministry stated that its submission on this matter is the reconsideration summary.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a crisis supplement for hydro back payments because the appellant did not meet any of the three criteria set out in s. 59(1) of the EAR was a reasonable application of the legislation or reasonably supported by the evidence. The ministry determined that the appellant was not facing an unexpected expense, she had alternate resources available and that failure to provide hydro back payment will not result in imminent danger to the physical health of the appellant.

In order to receive a crisis supplement under s. 59 of the EAR, an applicant must meet all three of the criteria set out in subsection 59 (1) – if the applicant does not meet one of the three criteria, the crisis supplement will not be provided. Section 59 of the EAR provides as follows:

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 ...

(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, and

(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)...

(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.

In her submission on appeal, the appellant argued that at the time she applied for a crisis supplement, the \$1,850 that had been added to her residential account was totally unexpected as she had asked BC Hydro to stop charging her as of 18 March 2015 when she left the commercial premises and was not allowed to return. Further, she faced disconnection at the time and it is only by agreeing to a payment plan that she cannot pay in any event that she was able to have power restored to her residence. Yet, she argued that she is facing an obligation that she cannot sustain

given her income and financial situation. She argued that the ministry could not take advantage of her being forced to agree to the payment plan to pretend that the crisis was over. She indicated she was unable to meet that expense then and now as the monthly payments are too onerous for her. She took offence to the ministry's implication that she should move to cheaper accommodations since she has not been able to find anything better and cheaper since she has been at that location. Finally the appellant argued that failure to provide the crisis supplement would result in imminent danger to her physical and mental health since disconnection would mean that irreplaceable stock of food in her freezer would be wasted and she would be unable to cook any food in her home. Additionally, she argued that failure to provide the crisis supplement also negatively affects her current mental disorders.

The ministry argued that the debt from the appellant's commercial account was not an unexpected expense as she knew she had to pay hydro for both her residence and her commercial accounts. Further, the ministry took the position that she had been notified by BC Hydro that she was not paying enough on her commercial account and that her lack of funds does not make it an "unexpected" expense. As well, the ministry argued that the appellant had resources available to pay her outstanding hydro balance since she negotiated and agreed to a payment plan with BC Hydro for one year. Finally, the ministry stated that failure to provide the funds would not result in imminent danger to the appellant's physical health since the appellant's hydro is not subject to imminent disconnection.

Panel decision:

This appeal was heard jointly with two other appeals (2015-00562 and 2015-00564) and the panel is aware of the circumstances around this appeal.

Unexpected expense:

The evidence shows that the appellant was responsible for 2 separate hydro accounts with BC Hydro, one for her residence and the other for a business she operated in a neighbouring community. When her business operation stopped on 18 March 2015, the appellant vacated the premises and was not allowed back despite attempts to revive the business. Sometime in July 2015, that business account was transferred to the appellant's residential account and as a result she applied on 11 August 2015 for a crisis supplement because of that unexpected transfer of account.

While the panel acknowledges that the amount that was transferred from her business account to her residential account was unexpected for the appellant, the debt owed was clearly on the appellant's mind. In fact, according to her evidence, in May 2015 the appellant contacted BC Hydro to advise that she wanted to cancel her commercial account and that the debt owed after 18 March 2015 should be the responsibility of the landlord because she had thereafter been denied access to the premises. There is no evidence that BC Hydro accepted her request to stop the billing as of 18 March 2015 but the evidence suggests the opposite and the panel notes that the appellant was aware of the debt.

Meanwhile, some time between April and July 2015, the appellant faced a power disconnection and the appellant indicated she made an arrangement with BC Hydro to pay the full amount based on monthly payments of \$180 until July 2016 in order to have the power restored to her residence.

Consequently, the evidence suggests that this ongoing debt was anything but unexpected and s. 59 (1)(a) of the EAR stipulates that it is the expense itself that must be unexpected, not whether it is in an account or another, and the panel finds the ministry reasonably concluded that the expense, i.e. the debt owed to BC Hydro, was not an unexpected expense.

No resources:

To be eligible for a crisis supplement, the second condition is that the appellant must be unable to meet the expense because no resources are available to the family unit. The appellant did not provide any evidence as to her inability to meet the expense, other than stating that she was forced into the arrangement to get her power back but that it was too onerous for her. Yet, she did make an agreement with BC Hydro prior to applying for a crisis supplement, an agreement scheduled to be completed by July 2016. Since both the appellant and BC Hydro were willing to make this agreement it would be unreasonable to expect the ministry to question this arrangement. Therefore it was reasonable for the ministry to conclude that on this basis, she had the resources to repay her debt and ongoing usage.

Imminent danger to physical health:

In her evidence the appellant indicated she had her power disconnected and that as a result she made the arrangement with BC Hydro for getting the power back in her residence. The evidence is to the effect that this disconnection occurred prior to her applying for this crisis supplement on 11 August 2015. On 19 August 2015 BC Hydro advised the ministry of the arrangement and that, as a result, the appellant was not currently facing disconnection. The appellant did not provide the ministry with any letter or evidence of imminent disconnection at the time she applied for the crisis supplement, nor subsequently within the scope of this appeal. Thus, the panel finds that the ministry reasonably determined that it was not satisfied the failure to provide the funds to pay for the outstanding balance owed to BC Hydro would result in *imminent* danger to the appellant's physical health. The panel notes that imminent has a sense of urgency – i.e. impending or about to happen and in this matter no evidence of impending or imminent power disconnection was provided.

Conclusion:

For the reasons given above, the panel finds that the ministry's reconsideration decision denying the appellant a crisis supplement for hydro back payment was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.