

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated October 15, 2015 which denied the appellant's request for a crisis supplement to cover hydro utility costs. The Ministry held that the requirements of Section 59(1) of the *Employment and Assistance Regulation* (EAR) were not met as the ministry found that:

- The appellant's hydro utility costs were not an unexpected expense;
- There was insufficient information to establish that there are no resources available to the family unit to pay for utility costs; and,
- It was not satisfied that failure to meet the expense would result in imminent danger to the physical health of any person in the family unit.

## PART D – Relevant Legislation

*Employment and Assistance Regulation* (EAR), Section 59

## PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Disconnection Notice dated April 24, 2015 from BC Hydro for the total amount of \$591.02 “owing today” and a security deposit of \$174 required by May 5, 2015;
- 2) Receipt dated April 28, 2015 for services provided by a veterinary hospital for just over \$91;
- 3) Crisis Supplement Questionnaire dated May 15, 2015 for hydro, with an explanation that the appellant’s dog was bitten by the neighbor’s dog and she had to go to the veterinary’s office, which cost \$91 and was money she “would have paid on hydro”; and,
- 4) Request for Reconsideration dated October 2, 2015 with attached written statement.

In her Request for Reconsideration, the appellant wrote:

- The emergency was that her dog had been bitten by the neighbor’s dog and she felt she had to take her to the vet. She had anticipated that the neighbors would reimburse her for this expense but they refused.
- She realizes that hydro is not an unexpected expense, but the vet bill was and the hydro security deposit demand was. She considers her dog to be the equivalent to her child and she is responsible for her well-being.
- She paid her support allowance to the vet. The bill was actually higher but she was assisted by a non-profit organization to cover the medication portion of the bill.
- She only had \$7 left to get through the entire month of May 2015.
- Hydro was not requiring the entire amount of the bill at that time but they were absolutely requiring the security deposit of \$174 and some other payment. The \$591.02 included a deferred amount of \$316.48. She was able to maintain a hydro connection with a payment of \$150 plus the security deposit amount. The actual bill was only \$99 past due plus current charges of around \$48. The requested \$91 reimbursement was perfectly aligned with keeping her hydro account current and, if one is current on the bill, she suggests the security deposit should not be required.
- She cancelled the direct payments to BC Hydro because they were going to increase the automatic payments, and she did not feel her usage warranted the increase. Given such a small margin of support left after rent is paid, this leads to having to pay other priorities such as food over hydro payments and she has fallen behind again in regards to hydro payments.
- She lives in the least expensive suitable accommodation she has been able to find in her area. Her mental health would not improve if she was forced to live in the less costly accommodations that she has seen so far. Keeping her dog is crucial to her mental health.

In her written submission dated November 18, 2015, the appellant reiterated much of the information provided in her Request for Reconsideration and the panel considered it as argument (see Part F, Reasons for Panel Decision, below).

The ministry relied on its reconsideration decision as its submission on the appeal.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision that denied the appellant's request for a crisis supplement to cover utility costs, on the basis that the requirements of Section 59 of the *Employment and Assistance Regulation* (EAR) were not met, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the appellant's circumstances.

Section 59(1) of the EAR sets out the eligibility requirements which are at issue on this appeal for providing the crisis supplement, as follows:

### **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*. ...

### *Ministry's position*

The ministry's position is that the provisions of Section 59 of the EAR allow for the ministry to provide a crisis supplement when all of the legislative criteria are met. The ministry argued that, as the appellant agreed, the need to pay her hydro bill is not an unexpected expense. The ministry argued that an "unexpected expense or an item unexpectedly needed" does not describe an unexpected event in an individual's personal life, such as a vet bill, that in and of itself did not result in an unexpected expense for hydro. The ministry also argued that the appellant's shelter allowances are intended to be used for her shelter costs and she has been issued an allowance for this purpose. The ministry argued there is insufficient evidence 'to support a probability of immediacy' that failure to obtain funds to pay towards her BC Hydro bill will place the appellant's health in imminent danger.

### *Appellant's position*

The appellant's position is that the while an expense for regular hydro usage was expected monthly, it was the additional \$91 required for veterinary services for her dog that was unexpected as well as the neighbors refusal to reimburse her for the veterinary bill since it was their dog that bit the appellant's dog. The appellant also argued that the demand by BC Hydro for a security deposit was unexpected by her. The appellant argued that there is not enough left from her assistance to pay for hydro services after she pays rent even though she lives in the least expensive suitable accommodation she has been able to find in her area since she is limited because keeping her dog is crucial to her mental health. The appellant argued that she approached a non-profit organization that contributed just under \$90 towards the total veterinary bill. The appellant argued that her mental and potentially her physical health would have been in imminent danger if she did not take her dog to the vet and something bad happened to her

*Panel decision*

*Unexpected expense*

Section 59(1) of the EAR sets out that the ministry may provide a crisis supplement to or for a family unit if the family unit or a person in the family unit requires the supplement to meet an unexpected expense, is unable to meet the expense because there are no resources available to the family unit, and the ministry is satisfied that failure to meet the expense will result in imminent danger to the physical health of any person in the family unit. Regarding the first requirement that the family unit requires the supplement to meet an “unexpected expense,” although the appellant may have believed it necessary to incur the expense for veterinary services, she did not submit a request to the ministry for a supplement for veterinary services and, instead, requested a supplement to pay her outstanding hydro bill. The appellant acknowledged that she used the support allowance that had been provided to her by the ministry to pay towards the veterinary bill. The panel finds that the ministry reasonably determined the requirement to pay for hydro service is not an unexpected expense, as acknowledged by the appellant, and that the diversion for other purposes of the funds provided by the ministry for shelter does not convert the hydro expense itself into one that is unexpected. It is not unexpected that failing to pay for the use of hydro services will result in a disconnection notice and eventual disconnection of the service and/or the requirement for a security deposit. The latter the appellant acknowledged had been paid directly to BC Hydro by the ministry. The panel finds that the ministry reasonably concluded that the hydro expense was not unexpected, as required by Section 59(1)(a) of the EAR.

*No resources*

The appellant acknowledged that her current rent exceeds the shelter allowance from the ministry but argued that she lives in the least expensive suitable accommodation she has been able to find in her area, taking into account that her need to keep her dog is crucial to her mental health. The appellant argued that she sought and was able to access community resources, approaching a non-profit organization that contributed almost \$90 towards the veterinary medications; however, the appellant did not provide information about approaching community organizations to help with payment towards her outstanding hydro bill. The appellant also did not provide any financial information, such as a copy of a bank statement or other records, to show that she has no other resources in the way of assets or other forms of income to pay the hydro bill. Given the insufficient evidence that the appellant explored other possible resources and her acknowledgement that she received assistance from the ministry for her shelter and support, the panel finds that the ministry reasonably concluded that there was insufficient information to establish that there are no resources available to the appellant’s family unit to meet the expense, as provided under Section 59(1)(a) of the EAR.

*Imminent danger to physical health*

The appellant received a disconnection notice dated April 24, 2015 and BC Hydro confirmed to the ministry on August 12, 2015 that the appellant’s hydro service had been disconnected yet the appellant did not argue that she was likely to suffer any impacts from loss of her hydro service. The appellant argued instead that her mental and potentially her physical health would have been in imminent danger if she did not take her dog to the vet and something bad happened to her dog. The appellant requested the crisis supplement for hydro in May 2015 and the panel finds that the ministry reasonably required evidence that the failure to meet the hydro expense placed the appellant at imminent danger to her physical health at the time of her request.

The panel notes that the meaning of the word “imminent” has a sense of urgency – i.e. “impending; about to happen” and in this matter no evidence of impending or imminent power disconnection was

provided. Further, the panel notes that Section 59 of the EAR provides only for circumstances where there is an imminent danger to the physical health of the person- it does not include mental health, as argued by the appellant. The panel finds the ministry's determination that it was not satisfied that the failure to meet the outstanding hydro expense will result in imminent danger to the physical health of any person in the family unit, as required by Section 59(1)(b) of the EAR, to be reasonable.

*Conclusion*

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crisis supplement for the cost of hydro utilities because the requirements of Section 59(1) of the EAR were not met, was reasonably supported by the evidence and the panel confirms the ministry's decision.