

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 March 7, 2016 which held that the appellant was not eligible for a crisis supplement for the cost of her outstanding utility bill under section 59 of the Employment and Assistance Regulation (EAR) because the minister was not satisfied that:

- the need to pay the utility bill was unexpected as required under subsection (1)(a);
- there are no resources available to meet the expense as required under subsection (1)(a); and
- failure to pay the outstanding utility bill would result in imminent danger to the appellant's health as required under subsection (1)(b).

PART D – Relevant Legislation

EAR, section 59

PART E – Summary of Facts

The appellant has been in receipt of income assistance at a monthly rate of \$610 (\$375 shelter and \$235 support) as a sole recipient since January 2015. The appellant shares a residence with her adult son who is also a recipient of assistance. The appellant is not able to work as her son requires full-time care. The appellant's share of the monthly shelter costs are \$691 (\$550 rent plus \$141 utilities).

In January and February 2015, the appellant received crisis supplements totaling \$1,094.65 to pay overdue rent and utilities. At the same time, the appellant's son received \$869.17 for his share of outstanding expenses. The appellant was advised that the crisis supplements were provided as one-time assistance in order to prevent eviction and disconnection of utilities and that she should consider alternate accommodation as her shelter expenses significantly exceeded the amount of her monthly assistance.

On February 16, 2016, the appellant submitted a copy of a "Reminder Notice" indicating that her utility account with the city is beyond the accepted terms of payment and that \$140.55 was overdue and must be paid by February 23, 2016. The appellant's request for a crisis supplement to pay the outstanding amount was denied.

In her March 3, 2016 Request for Reconsideration submission, the appellant writes that she could not budget for the utility costs as she did not expect her landlord to place a "no payment arrangement" on her file. She has been without power since February 24, 2016, which poses an imminent danger to her health. She is estranged from family members and friends and local agencies have directed her to the ministry for assistance with the utility costs. Despite constantly searching, she has not been able to find affordable housing.

At the hearing, the appellant confirmed that her monthly shelter costs remain the same and that she is still seeking other accommodation but has no other option at this time. She has water service, but without power she is unable to bathe and cannot cook food. If a payment arrangement had been an option, she would have tried her best as she did have some money available, but not the whole amount.

The ministry did not provide additional evidence at the hearing and relied on its reconsideration decision.

PART F – Reasons for Panel Decision

Issue under appeal

The issue under appeal is whether the ministry decision that the appellant was not eligible for a crisis supplement under section 59 of the EAR to pay her outstanding utility bill was reasonably supported by the evidence or a reasonable application of the legislation in the appellant's circumstances. That is, was the ministry reasonable to conclude that the following criteria were not met:

- the need to pay the utility bill was unexpected as required under subsection (1)(a);
- there are no resources available to meet the expense as required under subsection (1)(a); and
- failure to pay the outstanding utility bill would result in imminent danger to the appellant's health as required under subsection (1)(b)?

Relevant Legislation

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.

Unexpected Need – section 59(1)(a)

The appellant argues that it was unexpected that she was not able to make a partial payment on her utility bill in order to retain power service. Her advocate adds that while the “no payment arrangement” was initiated by the landlord, it is not a tenancy dispute but is a dispute between the appellant and the city.

The ministry argues that regardless of whether or not a “no payment arrangement” had been placed on the appellant’s file by her landlord, the need to pay utility bills is not an unexpected expense. Furthermore, the appellant was advised in January and February 2015 that her shelter costs significantly exceeded her shelter allowance.

Section 59 allows for the provision of a crisis supplement to meet an unexpected expense. It is unknown whether the city would have accepted a partial payment in order to retain service even if the landlord had not placed a “no payment arrangement” on the appellant’s utility file. The panel also notes that despite the appellant’s statement that she did have money for a partial payment, she requested assistance for the entire overdue amount. However, the fact that the appellant discovered that she would not be allowed to make a partial payment does not transform the regular monthly utility expense into an unexpected expense. The appellant was aware of the need to pay her utility costs in early 2015 and in the following year received a “Reminder Notice” in February. The panel finds that the ministry reasonably determined that the appellant’s monthly utility costs are not an unexpected expense and that this criterion of section 59(1)(a) was not met.

Available Resources – section 59(1)(a)

The appellant argues that she budgets the best she can with her limited resources and had planned to pay as much as she could from her income assistance, which is her only available resource. Additionally, she rejects the assertion that she has chosen to rent accommodation she cannot afford as her current accommodation is her only option.

The ministry argues that the appellant’s shelter allowance is intended to be used for utility costs and is considered an available resource. Additionally, there is no evidence of a lack of resources available in her support allowance to budget for shelter costs.

The onus to establish eligibility for a requested supplement rests with the applicant for the benefit. In this case, the available information is that the appellant’s monthly rent of \$550 leaves \$60 monthly for food and any other costs, including utilities. The appellant states that she has no friends or family who can assist her with her utility costs. Bank statements or other documentation detailing the appellant’s monthly finances were not provided. While the Reminder Notice does not specify the period for which the utility costs are outstanding, and there is no monthly invoice before the panel, the amount owing is equivalent to the amount owing for a single month. Whether the \$140.55 owing indicates that the appellant has been able to make her monthly payments up until February 2016, even with only \$60 remaining from her shelter allowance, or is the minimum payment acceptable to the city cannot be established based on the information provided by the appellant. The panel finds that the ministry reasonably concluded that the information does not establish that there are no resources available to

meet the utility expense and that this requirement of section 59(1)(a) was not met.

Imminent Danger to Physical Health – section 57(1)(b)

The appellant argues that her health is placed in imminent danger by virtue of not having power and that access to power is a basic human right.

The ministry argues that there is insufficient evidence to support a probability of immediacy that failure to pay the outstanding utility bill will place her health in imminent danger.

Again noting that the onus rests on an applicant seeking assistance to establish eligibility, the panel finds that in assessing whether an imminent danger to health exists, it is reasonable to require information substantiating a threat to health and that the threat is imminent. While imminent is not defined in the legislation, the panel finds that the ministry has reasonably interpreted it to require some degree of immediacy. In the absence of information respecting an impact on the appellant's physical health, imminent or otherwise, the panel finds that the ministry reasonably determined that an imminent danger to the appellant's physical health has not been established as required by section 59(1)(b).

Conclusion

In conclusion, the panel finds that the ministry's decision that the appellant is not eligible for a crisis supplement for outstanding utility costs because the criteria of section 59(1)(a) and (b) of the EAR were not met, is reasonably supported by the evidence. The reconsideration decision is confirmed.