

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated August 16, 2016, finding the appellant is not eligible to receive a crisis supplement for hydro bills because she does not meet two of the three legislated criteria found in section 57 of the EAPWDR in that this was not an unexpected expense and failure to provide the crisis supplement will not result in imminent danger to the appellant's physical health.

## PART D – Relevant Legislation

The relevant legislation is section 57 of the EAPWDR.

## PART E – Summary of Facts

The appellant and her spouse are in receipt of disability assistance.

On July 27, 2016 the appellant used the ministry's self-service portal to request a crisis supplement to pay her hydro bill.

On July 28, 2016, the appellant verbally informed the ministry that she had received a disconnection notice from BC Hydro because she owed \$689.85. Of this amount \$483.00 was a security deposit. The appellant advised the ministry that she had been paying Hydro a set monthly amount of \$37.00.

On this same date the ministry contacted BC Hydro, which informed the ministry that the appellant owed \$660.85 of which \$579.59 was due to the annual adjustment made in February, 2016. No payment arrangements had been made so that overdue charges had been added.

On this same date the ministry contacted the appellant who informed the ministry that she had signed up for online billing and could not understand the bills. The appellant also told the ministry that she had attempted to enter into payment terms with BC Hydro but that BC Hydro refused to do so as the account was overdue.

In her reconsideration application the appellant wrote: "I also need power to charge up my scooter as it is the only way I can get around to do my errands."

At the hearing the appellant stated that:

- her home does not have natural gas and so she cannot cook or operate her refrigerator without hydro;
- her fibromyalgia has moved to her legs so that she requires her scooter to carry out daily errands;
- in the winter she uses her scooter less and arranges to ride with friends to do errands in inclement weather;
- she subscribed to online billing "6 or 8 months ago" and was confused by the online bills and could not understand how much she owed;
- the ministry was paying her hydro bills for her by deducting a pre-set monthly amount from her assistance cheque;
- she asked a friend to call BC Hydro to understand whether a security deposit was required, but did not understand the answer;
- she called Hydro in August to make arrangements to pay instalments for the arrears but was told that BC Hydro would not do that;
- she was aware that BC Hydro conducted an annual review in February but could not understand how much she owed.

### **Admissibility of New Evidence**

The appellant's statements that she has no other source of power in her home and that her fibromyalgia has moved into her legs so that he is dependent on her scooter were not before the

ministry at the time of the reconsideration decision.

In accordance with section 24(2) of the Employment and Assistance Act, the panel may only admit information and records that were either before the ministry at the time of the reconsideration decision or are in support of information and records that were before the ministry at the time of the reconsideration decision.

To be admissible, the appellant's statement must therefore be evidence in support of the information and record that was before the ministry at the time of the reconsideration decision. In this case, the evidence that she has no other source of power and the medical condition of her legs is clearly information that is in addition to the information was before the ministry at the time of the reconsideration decision and so cannot be in support of that information.

Based on this analysis, the new evidence submitted by the appellant at the appeal is not admissible.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive a crisis supplement for hydro bills because she does not meet two of the three legislated criteria found in section 57 of the EAPWDR in that this was not an unexpected expense and failure to provide the crisis supplement will not result in imminent danger to the appellant's physical health.

The relevant legislation is section 57 of the EAPWDR:

### **Crisis supplement**

**57** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability 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*.

### **The Appellant's Position**

The appellant's position is that the expense was unexpected because she did not understand how much the annual review left her owing and did not understand that her monthly payment had been increased because she had trouble understanding the online bills.

### **The Ministry's Position**

The ministry's position is that this expense is not unexpected because the appellant knew that BC Hydro carries out annual reviews, knew that this one was to be carried out in February and she has the responsibility (which was explained to the appellant when she chose to have the ministry pay her hydro bills) to ensure that her account is kept up-to-date. Furthermore, the ministry noted that the appellant has received crisis supplements for hydro in 3 of the last 4 years, including one for payment of the annual adjustment in May 2014.

The ministry stated that, given the evidence before it at the time of the reconsideration decision, it had no indication that not receiving the crisis supplement would result in imminent danger to the appellant's physical health. The ministry was not aware that the appellant did not have an alternate source of power in her home and so does not have the ability to operate her stove or refrigerator without hydro. Also, there was no indication that the appellant not being able to use her scooter would result in imminent danger to the appellant's physical health as there was no indication that she had a physical condition which necessitated its use.

### **The Panel's Analysis**

#### Unexpected Expense

Whatever her difficulties in reading her bills, whether on paper or online, the appellant was aware that

BC Hydro carries-out annual reviews and that this review was to and did happen in February, 2016. The fact that the appellant has received three crisis supplements for hydro bills in the last 4 years indicates that the appellant is aware of her responsibilities in this regard. The amount of the bill may have been alarming to the appellant, but the fact that she must pay her hydro bills cannot have been unexpected.

#### Alternate Resources

The fact that the appellant has no other resources to pay the hydro bill is not in question.

#### Imminent Danger to Physical Health

In determining whether not providing the crisis supplement would result in imminent danger to the appellant's health, the ministry had very little evidence to go on. The appellant appears not to have disclosed to the ministry that her home has no other energy source so that without hydro she would not be able to cook or keep food refrigerated. Similarly, the ministry had no evidence as to the importance of the appellant being able to charge her scooter. Without such evidence, the ministry was not in a position to be able to assess whether the appellant's physical health was in imminent danger.

#### Conclusion

Accordingly, the panel finds that the Ministry's decision to deny the appellant a crisis supplement for overdue hydro bill was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.