



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the "ministry") reconsideration decision dated 2016/08/02 which held the appellant was not eligible for a crisis supplement for her hydro bill as she did not meet all the requirements of section 57 of the Employment Assistance for Persons with Disabilities Regulation (the "EAPWDR"), specifically, that the expense was not unexpected and the appellant had not demonstrated that there were no other resources available.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5; and
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57.

PART E – Summary of Facts

The Appellant is a recipient of disability assistance with no dependent(s).

The evidence before the Ministry at reconsideration included the following documents:

Request for Reconsideration dated June 29, 2016 with the following attached documents:

1. Notice of Disconnection letter from the appellant's hydro company dated June 29, 2016 listing an overdue balance of \$547.80.
2. Letter from the Appellant.

The appellant submitted the following written submissions:

1. The appellant had difficulty obtaining documents for this appeal and had to go to a nearby town to retrieve them;
2. In 2015, the appellant was told by the ministry that they had set up an equal payment plan with her hydro provider on her behalf and that these payments would be deducted from her assistance by the ministry and remitted to her hydro provider each month;
3. The appellant had spoken to her hydro provider and was informed that her bill had not been paid for two months in 2015 and that when her hydro costs increased, so did the problem;
4. The appellant has been trying to focus on getting her health back on track, not on her hydro bills; and
5. The appellant requested that the ministry pay her hydro bill in full and deduct an agreed upon amount from her assistance each month until the amount of her outstanding hydro bill was paid off, which the ministry denied.

Notice of Appeal dated August 15, 2016, the Appellant included a written submission containing the following information:

1. The appellant feels there have been "substantive changes" since her request for reconsideration and that she wanted to make a fresh application for a crisis supplement;
2. The appellant was informed by the ministry that she would have to continue with her appeal to the tribunal level;
3. The appellant is requesting a new crisis supplement amount of \$400.00 to help with the cost of paying her overdue hydro bill and the reconnection fee;
4. The ministry paid \$110.00 to her hydro provider in August 2016;
5. The appellant has contacted her hydro provider and made a tentative payment agreement that if the ministry will pay half of her bill (\$275) and pay the \$125 reconnection fee now, her hydro provider will allow her to pay off the balance of her bill over the next twelve months on an equalized payment plan of \$150/month;
6. The appellant argues that as the ministry was making monthly payments directly to her hydro provider she was not aware that her payment went up and that she does not recall being informed of any increase, rather that it was her understanding that the ministry would automatically adjust the payment to reflect the current amount owing;
7. The appellant states that her poor health prevented her from tracking or understanding the content of her hydro bills, which she reviewed for usage not cost and she did not simply

“choose to disregard the billing amount”;

8. The appellant states that she asked her landlord if he would be willing to put her hydro account in his name, pay off the amount owing and allow her to repay him over time however he was not agreeable to this and that she did not have any other resources available from individuals or the community; and
9. The appellant’s poor health increases the need for electricity for cooking, bathing and heating, particularly as winter approaches.

The Ministry did not submit additional evidence on appeal and relied exclusively on the Reconsideration Decision.

The panel finds that the additional evidence provided by the appellant in the notice of appeal was not admissible under section 22(4) of the *Employment and Assistance Act* as evidence in support of the information and records that were before the minister when the decision being appealed was made because the additional evidence detailed a new payment agreement with the appellant’s hydro provider that was not before the ministry at the time of reconsideration.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny the appellant a crisis supplement for hydro pursuant to section 57 of the EAPWDR is a reasonable application of the legislation in the circumstances of the appellant or is reasonably supported by the evidence, specifically that the expense was not unexpected and the appellant had not demonstrated that there were no other resources available.

Section 57(1) of the EAPWDR gives discretionary power to the ministry to provide a crisis supplement to an individual who is eligible for income assistance or hardship assistance providing the individual requires the supplement to meet an unexpected expense or the item is unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available. The ministry must additionally determine that the failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit. All three criteria must be met in order to receive a crisis supplement.

Section 57 of the EAPWDR states the following:

57 (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.

(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services.

(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

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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).

(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.

Ministry's Position

The ministry found at reconsideration that the failure to pay the hydro bill would result in imminent danger to the physical health of the appellant satisfying section 57(1)(b)(i). The ministry concluded, however, that the hydro bill could not be characterized as an unexpected expense or unexpectedly needed as required by section 57(1)(a) and that the appellant had not demonstrated that there were no alternate resources available to her to pay her utility bill and therefore found that the appellant was not eligible for the crisis supplement.

The ministry held that the appellant had received regular hydro bills and that her hydro bill was therefore an expected cost that the appellant was aware of and that it was her responsibility to monitor both the usage and the cost of the utility. The appellant received a crisis supplement for utilities in 2014. The ministry noted that the appellant recalled being advised that her hydro bill would increase in August 2015. In the appellant's Request for Reconsideration submission, the appellant notes that although she did recently review her bills and thought she should track her usage, she chose instead to focus on improving her health. Given this information, the ministry was not satisfied that her hydro bill was an unexpected expense.

The ministry further found that the appellant failed to provide any evidence that she had exhausted all possible alternative resources to assist her with paying her utilities.

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Appellant's Position

The appellant argued that the amount of her hydro bill was unexpected as although she had recently reviewed her hydro usage on her hydro bills, she was unable to do more due to her health conditions. She also believed that the overdue bill was unexpected, as the ministry was paying hydro each month on her behalf the ministry should have automatically deducted more from her assistance to cover the cost of a higher billing amount when the cost of utilities increased.

Panel Decision

The legislation stipulates that in order for the appellant to be eligible for a crisis supplement the recipient must first show that s/he requires the supplement to meet an unexpected expense or that the item was unexpectedly needed, second, that s/he does not have the resources to pay for the item and third that failure to provide the crisis supplement would result in imminent danger to her/his physical health.

The panel finds that there was insufficient evidence to support the appellant's position that the hydro bill was an unexpected cost or an item that was unexpectedly needed. Hydro is an ongoing, regular expense that the appellant consumes each day. There is insufficient evidence that the appellant's medical conditions prevent her from understanding the content of her bills or the necessity to review and pay them on time.

The panel finds that the ministry reasonably determined that the hydro bill could not be characterized as unexpected as the appellant is an existing consumer.

The panel also finds that the ministry reasonably determined that there was insufficient evidence to support that the appellant had exhausted all possible sources of support from the community or other resources to pay her utility bill.

In conclusion, the panel finds the ministry's determination that the appellant was not eligible for a crisis supplement for payment of a hydro bill pursuant to section 57 of the EAPWDR was a reasonable application of the legislation in the circumstances of the appellant, namely that under section 57(1)(a) the expense was not unexpected and that alternate resources had not been exhausted and confirms the ministry's decision.