

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s Reconsideration Decision dated January 9, 2018, which denied the appellant’s request for a crisis supplement to pay a Hydro bill on the grounds that without the funds , and although the Appellant

- (i) met the criterion of having no resources available to pay the Hydro bill, and
- (ii) met the criterion that imminent danger to the Appellant’s physical health could result,
- (iii) the Appellant did not meet the criterion of showing that the need for money was to meet an unexpected expense or obtain an item unexpectedly needed

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA), section 4
Employment and Assistance Regulation (EAR), section 59 (1)

PART E – SUMMARY OF FACTS

Documents and Information Before the Minister at Reconsideration

The documents and information before the ministry at the time of the reconsideration decision included:

A. The Decision to be Reconsidered dated December 1, 2017, which included that:

- (i) the Appellant contacted the ministry at the end of November 2017 to request a crisis supplement for Hydro, which the Appellant said was behind because she had to choose between purchasing food, or paying Hydro and she chose food
- (ii) the Appellant paid \$10 toward the Hydro account in October 2017 but had no more funds, had no one to borrow money from, and had not at that time attempted to make payment arrangements with BC Hydro
- (iii) a BC Hydro bill dated in November 2017 with an outstanding balance of \$187.91 with 2 Small Payments Posted in October and November 2017, with the current bill of \$108.61 for a two month period in the fall of 2017 which is a monthly amount of \$54.31
- (iv) a ministry worker questioned how much of the Appellant owed on the Hydro bill and asked if the Appellant had attempted to make payment arrangements and whether or not the Appellant had contacted Hydro to give it permission to speak to the ministry
- (v) a ministry worker also inquired as to how the Appellant could maintain rent of \$850 per month when her income assistance was only \$710 per month

B. The Appellant's reasons for requesting reconsideration, which included

- (i) A summary of the legislation from the Appellant's point of view
- (ii) That the Appellant was forced to stop working for medical reasons and the spring of 2016, and then received Medical Employment Insurance, and then Employment Insurance, but her benefits expired in February 2017
- (iii) That the Appellant has been receiving Income Assistance in June 2017 because she exhausted her savings before that
- (iv) In late summer the Appellant received a Hydro bill for \$102.80, made two payments totaling \$25.60, and two months later received a Hydro bill for \$187.91
- (v) the Appellant contacted Hydro in mid-Fall 2017 to try to work out a payment schedule, but Hydro refused to negotiate because the bill had been extended and referred her to the ministry for assistance; upon attending the ministry offices the Appellant advised the ministry she had attempted to work things out with Hydro who had informed her that she was in danger of an electrical disconnection because of an unpaid bill
- (vi) After paying another \$10 toward the bill, in late 2017 the Appellant contacted Hydro again to work out a payment plan but Hydro would not accept any payment plan or grant extensions and required the appellant to pay her bill in full immediately, and told her that she would be receiving a notice of disconnection about three days later. The Appellant then owed \$177.91
- (vii) The appellant said that she met all three requirements for a crisis supplement, endeavours to use as little electric power as possible, is living at the limit of her tolerance for cold and damp and it did not expect a Hydro bill of that magnitude and expected it to be able to arrange a reasonable payment plan with Hydro that would be sustainable until she was able to return to work, but Hydro's refusal to negotiate was unexpected
- (viii) The Appellant also had an unexpected expense of having to travel to a funeral in another city in the fall of 2017 which further exhausted her resources, and she has attempted to access all other available resources including community support, to no avail, although she did negotiate a loan with the her landlord because she had paid only part of her rent with the balance as an increasing debt owed to the landlord, and the Appellant exult exhausted her credit limit with your credit cards is only making payments on the interest; she has no further credit available, has spent all of her cashable savings, and long ago exhausted the generosity of friends and family
- (ix) The Appellant lives in a freestanding home, and electricity as her only source of heat. Without heat her asthma is exacerbated by cold and damp, and to mould forms quickly. Thus, with disconnection of her Hydro she faces an imminent threat to her physical health as she will be unable to heat her home, prepare food, will effectively be living in an uninsulated shelter, and that will result in a threat to her physical health. She said it was also possible that the waterlines would freeze in such a situation depriving her of all essential resources.

C. A Submission from a Social Service Advocacy Agency dated January 9, 2018 in which

(a) Facts as follow were set out:

- (i) The Appellant was forced to stop working for medical reasons in the spring of 2016
- (ii) The Appellant first received medical Employment Insurance, then a regular Employment Insurance Benefits, which expired in February 2017

- (iii) The Appellant has been receiving Income Assistance since June 2017 because she exhausted her savings between the expiration of her Employment Insurance Benefits and June 2017
- (iv) The Appellant made two payments toward the Hydro bill totaling \$25
- (v) The Appellant received a Hydro bill for \$108.61 on the November 15, 2017 such that her total Hydro bill was \$187.91
- (vi) The Appellant attempted to work at a payment schedule with Hydro in November, but Hydro refused to negotiate as they had already extended the bill and referred her to the ministry for assistance. Upon attending the local ministry office the Appellant advised the worker as to what she had been told
- (vii) Hydro informed the Appellant she was in danger of having her electricity disconnected due to her unpaid bill
- (viii) The Appellant applied for a crisis supplement for the Hydro bill in late November 2017 and was denied; she has since paid \$10 towards her bill
- (ix) In mid December 2017 the Appellant contacted Hydro again in an attempt to work out a payment plan, but Hydro was not willing to accept any payment plan or grant her extensions and required her to pay her bill in full
- (x) At the same time that the Appellant contacted Hydro to work out a payment plan, she was told she would receive a notice of disconnection within the next four days
- (xi) The total bill that the Appellant now owes was \$177.91

(b) And In Which the Social Service Advocacy Agency Made Submissions as Follow:

- (i) **That the Appellant met all three requirements for a crisis supplement, because**
She met the requirement of supplement being needed for an unexpected expense, because
- She has met the requirement of the supplement being needed to meet an unexpected expense or obtain an item unexpectedly needed because she has endeavoured to use as little electric power as possible, and has been living at the limit of her tolerance for cold and damp conditions and did not expect a bill of the magnitude that Hydro sent
 - She expected to be able to arrange a reasonable payment plan with Hydro that would be sustainable until she returned to work and Hydro's refusal to negotiate was not expected
 - She faced an unexpected expense of travelling to a funeral for a family member in another city and had to pay for transport to and from there, and food while in transit although she received free accommodation in that other city; her trip expenses came to about \$100
- (ii) She met the requirement of having no resources available to her, because
- She has attempted to access all other available resources, including community support, to no avail
 - She has negotiated an accruing loan with the landlord and since early summer has paid only \$375 in rent, with the balance of her rent being added to the debt accruing to her landlord and cannot reduce her immediate living expenses any further
 - She has exhausted her credit limit with your credit cards and is only making interest payments; no further credit is available to her
 - She has no savings, having spent them long ago
 - She has exhausted the generosity of friends and family in providing loans or gifts
- (iii) She has met the requirement of there being an imminent threat to her physical health, because
- Her accommodation is a free standing carriage-house
 - Her only source of heat is electricity
 - She suffers from asthma, which is exacerbated by cold and damp
 - she has been informed repeatedly that she faces imminent electric disconnection and Hydro has refused or attempt to negotiate an extension or payment plan
 - She faces an imminent threat to her physical health if her Hydro's disconnected because without it she will be unable to heat her home or prepare food and will be living in an uninsulated dwelling and it is also possible that the waterlines will freeze depriving the Appellant of all essential resources, and

The Social Service Advocacy Agency submission concludes that the Appellant faces an imminent threat to her physical health resulting from unexpected expenses which she is unable to meet through any other means.

Evidence Submitted on Appeal

Neither the Appellant nor the ministry provided any further evidence on appeal.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the Ministry of Social Development and Poverty Reduction's Reconsideration Decision dated January 9, 2018, which denied the appellant's request for a crisis supplement to pay a Hydro bill on the grounds that without the funds, and although the Appellant

- (i) met the criterion of having no resources available to pay the Hydro bill, and
- (ii) met the criterion that imminent danger to the Appellant's physical health could result,
- (iii) the Appellant did not meet the criterion of showing that the need for money was to meet an unexpected expense or obtain an item unexpectedly needed

was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

Applicable Legislation

Employment and Assistance Act, section 4

Income assistance and supplements

- 4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance Regulation, section 59 (1)

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)

The Appellant's Submits that the Reconsideration Decision was Flawed and the Policy is Inconsistent with the Spirit of the Applicable Legislation and that the purpose of Crisis Supplements is to provide Urgent Assistance for Essential Utilities

Appellant's Submission

In her Notice of Appeal dated January 19, 2018, the Appellant submitted that she disagreed with the interpretation of the facts submitted in support of both her initial application and her request for reconsideration as they apply to the legislation and the intent of the legislation and believes her request merits the criteria set out for essential utilities.

In her submission dated Fairbury 27th 2018, the Appellant submitted that the Reconsideration Decision lacked administrative fairness, because she was not permitted to talk with the decision maker and she believes that her appeal and request for reconsideration were flawed, inconsistent with the policy for a crisis supplements and essential utilities, and inconsistent with the spirit of the applicable legislation. She submitted that if the tribunal conducts a review of her submissions to the ministry the tribunal will see this as well. She submits that there is very little point in having a policy to provide urgent assistance to people for essential utilities if being unemployed, destitute and suffering from asthma means that one does not qualify for less than a couple of hundred dollars and assistance when Hydro would not extend payment deadline or allow the Appellant to make payments as Hydro had previously made such concessions.

Ministry Submission

In its submission dated for every 28th 2018, the ministry stated that its submission on appeal will be the reconsideration summary.

Panel Finding*Inconsistency With Policy for Crisis Supplements & Essential Utilities*

The panel finds that the purpose of the legislation is simply stated in its language: to provide a crisis supplement when there is an unexpected expense, that there are no resources with which to meet such an expense and that failing to meet it will result in imminent danger to the appellant's physical health. Further "essential utilities" are not mentioned in the legislation. The panel finds that there is nothing in the legislation suggesting that its purpose is to provide essential utilities or urgent assistance for them.

Lack of Administrative Fairness – Appellant Not Permitted to Talk With Decision Maker

The panel finds that the internal administrative workings of the ministry are not reviewable by the panel.

There was no issue that the Appellant would qualify for a supplement if she otherwise met the requirements of EAA section 4 and EAR section 59(1).

The panel finds that within EAR section 59(1) there are three criteria that the Appellant must meet in order to be eligible for a crisis supplement, and that the only matters that may be considered are those three criteria set out in EAR section 59.

Criterion (i) The Appellant is Unable to Meet the Expense Because she has no Resources available

The Appellant submitted that she had no money to meet the expense and the ministry, in the Reconsideration Decision, agreed.

The panel finds that the criterion of the Appellant being unable to meet the unexpected expense was satisfied.

Criterion (ii) The Failure to Meet the Expense Will Result in Imminent danger to the Appellant's Physical Health

The Appellant submitted that if her electric power is cut off, due to her medical condition and her inability to cook, imminent danger to her physical health could result, and the ministry agreed.

The panel finds that the criterion of the Appellant being in imminent danger to her physical health, because the expense of the Hydro bill was not met, was satisfied.

Criterion (iii) Unexpected Expense or Item Unexpectedly Needed

The Appellant submitted that the Hydro bill was an unexpected expense, and that she had no money with which to pay it. Spending her money on attending an out-of-town funeral left her without money to pay the Hydro bill.

The ministry relied on the Reconsideration Decision which found that the Hydro bill was not an unexpected expense, because the Appellant had provided a Hydro bill that predated her application, with the implication being that the Appellant knew that Hydro bills had been provided in the past and would be in the future.

Panel Finding

The panel finds that there is no item that was unexpectedly needed and the Appellant's appeal is concerned only with an unexpected expense.

The panel finds that Hydro bills are recurring items and are not unexpected, and that the Appellant knew or ought to have known, because such bills are recurring items, that Hydro bills would be forthcoming in the future.

The panel finds that the Appellant allocated her scarce resources to the expense of attending the funeral, and not to her Hydro bill. The panel finds that the unexpected expense with which the Appellant was confronted was not the Hydro bill, but was the expense of attending the funeral of a family member in another city.

The panel finds that the crisis supplement must be directed at a particular unexpected expense, in this case the Hydro bill, and as the Hydro bill was not unexpected, the Appellant fails to meet this criterion.

The panel finds that as the Appellant met only two, but not all three, of the legislated criteria for a crisis supplement, she is not eligible for it.

Conclusion

The panel finds that the ministry's determination, specifically that the criterion of requiring that the crisis supplement sought must be for an unexpected expense was not met, to be reasonably supported by the evidence and a reasonable application of the applicable enactment, namely the *Employment and Assistance Regulation* section 59(1), in the circumstances of the Appellant.

The panel confirms the ministry's reconsideration decision. The appellant is not successful on her appeal.