

PART C – Decision under Appeal

The decision under the appeal is the Ministry of Social Development (ministry) reconsideration decision dated October 4, 2012, which held that the appellant is not eligible for a crisis supplement for utilities pursuant to Section 5 of the *Employment and Assistance for Persons with Disabilities Act (EAPWDA)* and Section 57 (1) of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*. The ministry determined that since all the legislated criteria have not all been met, the appellant is not eligible for the requested crisis supplement to pay his utility bill because:

- Utilities expenses are not unexpected expenses and that the appellant was aware of the need to pay his utility bill and had an arrangement with the ministry to assist him to do so;
- There was no information establishing that failure to pay the gas bill will result in imminent danger to the appellant's physical health;
- The ministry accepted that the appellant had no alternate resources to meet his meet.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act – EAPWDA – Section 5
Employment and Assistance for Persons with Disabilities Regulation – EAPWDR – Section 57(1)

PART E – Summary of Facts

The evidence before the ministry at the reconsideration decision included:

- Notice of Disconnection from a gas company dated August 23, 2012;
- Decision Report dated September 7, 2012;
- Request for reconsideration signed by the appellant on September 20, 2012.

The Notice of Disconnection states that the appellant's account was overdue as of August 12, 2012 and that the appellant must pay \$546.23 before August 24, 2012 to avoid disconnection of the service.

The appellant in the request for reconsideration stated that his main reason requesting reconsideration is financial. The appellant said that his income was \$620.00 at the time he switched to the equal installment option with the gas company. He had to pay \$550 for mortgage and was unable to pay for food, hydro and gas. The appellant stated that he was not aware that his gas usage exceeded the amount covered by his installment plan.

The appellant in the Notice of Appeal stated that going into the fall and winter months without heat, hot water or gas to cook pose "a physical risk". The appellant stated that with his severe depression and anxiety, his living conditions can potentially result in very serious physical consequences. The appellant said that the gas bill was unexpected as he did not conceive that his fuel bill was going up for spring and summer

The appellant in an e-mail dated October 21, 2012 stated that "my disability is a severe depression and anxiety for which I am taking the highest medication dose possible. That keeps the depression at bay for about three hours a day during late afternoon". The appellant said that the rest of the time he is incapacitated by medical side-effects and therefore things like mail reading suffers and he feels like "I have a boxcar full of concrete blocks tied to my leg". The appellant said that when he signed on for equal payments, he did not expect that a gas bill to go up for spring and summer. The appellant stated that it is impossible for him to cover his costs of living.

In an e-mail dated October 23, 2012 the appellant stated that the gas company disconnected the gas and asked when he was going to receive a decision from the Tribunal. The appellant stated that he has no heat, hot water or gas for cooking and he is unable to pay the reconnection fee plus the entire amount for the bill.

In an e-mail dated November 8, 2012 the appellant stated that he has been having difficulties with the cold weather. He is unable to dry his belongings and "at this end this is an emergency". The appellant requested to speed up the process of the appeal hearing.

At the hearing, the appellant stated that the ministry's decision was unreasonable because:

- He has no hot water and no heat. With his health condition he needs to have heat in winter time;
- He does not have any resources to pay for the expenses;
- The expense was unexpected because he was on an equal payment plan and the amount suddenly increased from \$25 to \$85 per month.

The appellant said that currently he has taken a legal action against the bank as he is not able to pay his mortgage and his home is for foreclosure.

In response to the ministry's questions the appellant said that hydro does not supply heat and only supplies electricity and gas is the only source of heat available to him. The appellant stated his home's foreclosure started in the summer of 2012 and he has to pay approximately \$10,000 to stop the foreclosure process. The appellant said that the ministry advised him to monitor his bills when they assisted him with the equal payment plan but because he was told that he was on an equal payment plan, he did not monitor his expenses. The appellant said that he has not made any plan at this time to move to a rental residence and live within the

range of his income from the social assistance; however, he said that he is expecting that his income will increase and he be able to pay for his living costs. The appellant further confirmed that he lives on his own.

The ministry relies on the reconsideration decision. The ministry submitted that it is the appellant's responsibility to monitor his expenses and live within the range of his income. The ministry agreed that the appellant does not have any resources to pay for the utilities expenses; however, the ministry said that this was not an unexpected expense. The appellant was aware that he should monitor his bills and was in a same situation last September. The ministry assisted him by arranging an equal payment plan and advised him to monitor his bills. The ministry further stated that there was no evidence before the ministry that failing to pay for this utility expenses causes imminent danger to the appellant's health as the appellant did not inform the ministry that gas was the only source of heat in his residence.

The panel finds that:

- The appellant is a single recipient of disability assistance;
- The appellant was advised and was aware that he needed to monitor his expenses;
- The gas is the only source of heat;
- The appellant does not have resources to pay for his expenses.

PART F – Reasons for Panel Decision

The issue before the panel is the reasonableness of the ministry's reconsideration decision dated October 4, 2012, which held that the appellant is not eligible for a crisis supplement for utilities. The ministry determined that the appellant's need for utility expenses is not unexpected and there was no information to establish that failure to pay the gas bill will result in imminent danger to the appellant's physical health.

Section 5 of the EAPWDA states that subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Section 57 of the EAPWDR states:

- (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*.
- (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 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.

The appellant's position is that he has no hot water and heat and without heat, he is not able to live during winter and this is an emergency situation. The appellant further argues that when he signed the equal payment plan he did not expect that his payment goes up suddenly and that he does not have any resources to pay for this expense.

The ministry's position is that the reconsideration decision was reasonable as the appellant did not meet the legislative criteria for receiving crisis supplement. The ministry stated that there was no information to indicate that there will be danger to the appellant's health if the ministry does not provide him crisis supplement and the utility expense was not an unexpected expense.

With respect to the appellant's request for a crisis supplement for utility expenses pursuant to Section 57 of the EAPWDR, the panel finds that the evidence establishes that:

- Failure to have heat in winter will result in imminent danger to the appellant's health. The panel finds

that the ministry's decision stating that there is no evidence establishing that failure to pay the gas bill will result in imminent danger to the appellant's physical health was not reasonably supported by the evidence.

- The appellant's request for crisis supplement for utilities was not to meet an unexpected expense. Section 57 (1)(a) of the EAPWDR states that the minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed. The panel finds that the appellant was aware of the need to pay his utility bill and had an arrangement with the ministry to assist him to do so. The panel finds that the appellant failed to monitor his bills and that he has not made any arrangement to decrease his cost of living to live in the range of his income.

Accordingly, the panel finds that the ministry's decision denying the appellant's request for a crisis supplement for utility expenses was a reasonable decision based on the evidence that the appellant request for crisis supplement for utilities was not an unexpected expense.

The panel finds that the appellant did not meet all the criteria of Section 57 of the EAPWDR as utility expenses are not unexpected; he was aware of his responsibility to manage his expenses and had an arrangement to pay his bills. Therefore, the panel confirms the reconsideration decision as it was reasonably supported by the evidence