

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision of January 8, 2019 in which the ministry determined that the appellant was ineligible for a crisis supplement for utilities because her request did not meet the legislative criteria set out in Section 59 of the Employment and Assistance Regulation (EAR), specifically that she did not demonstrate that:

- her need was unexpected;
- there were no alternate resources available; and
- failure to obtain the supplement would result in imminent danger to her physical health.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation (EAR): Section 59



PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration included:

- the appellant’s request for reconsideration submitted to the ministry on December 20, 2018 summarized as follows:
 - she is responsible for paying to the other tenant sharing her rental premises (“K”) one-half of the heat and hydro utilities invoiced to that address;
 - the utilities are billed only to K;
 - she is in a financial hardship situation and cannot afford to pay her half of the utility bills;
 - she is currently unemployed because she is raising an infant;
 - she has recently fled a domestic abuse situation.
- copy of residential tenancy agreement dated October 31, 2017 listing the appellant and her ex-husband as tenants and indicating that they are responsible for payment of \$900 per month rent and one-half of utilities;
- a note from K to the appellant (undated) listing unpaid utility costs of \$546.16 owed by the appellant to him, covering the period November 2017 – December 2018;
- copy of an electricity bill for the period September 12, 2018 – November 9, 2018 in the name of K;
- copy of two heating bills covering the period October 5, 2018 – December 6, 2018 in the name of K.

Evidence Received after Reconsideration

At the hearing the appellant submitted a statement of her income and expenses indicating the following:

- Monthly Expenses:

▪ Rent	\$900.00
▪ Car Insurance	117.21
▪ Car Payment	235.61 (bi-weekly)
▪ Life Insurance	70.00
▪ Phone	74.30
▪ Cable and Internet	71.80
▪ Electricity	90.00
▪ Heat	60.00
▪ Water	<u>76.00</u>
▪ TOTAL	\$1,854.53 (incorrectly totaled by appellant. Actual total is \$1,694.92)
- Bill Catchup:

▪ Heat and Electricity	\$786.00
▪ Water	227.00
▪ Phone	<u>369.12</u>
▪ TOTAL	\$1,382.12
- Intake (Income)

▪	\$1,056.00	(income assistance)
▪	593.96	(federal child benefit)
▪	<u>300.00</u>	(child support)
▪ TOTAL	\$1,949.96	

At the hearing the appellant acknowledged that until January 16, 2019 she also received Employment Assistance benefits of \$800 per month. She also explained that at the time she applied for a crisis supplement on December 11, 2018 she was receiving \$470 per month child support from her ex-husband, but that the court order for child support was actually \$300. She and her ex-husband separated on October 21, 2018. She added that the usual practice was for K to pay the full amount of the utility bills and inform her of the amount payable by her. Prior to the marital separation her ex-husband had looked after payment of the utility bills. After her ex-husband left she assumed that he was continuing to look after them. K did not advise her of the outstanding utilities’ debt until she owed more than 2 months’ share of the billed utilities.

The appellant also noted that her father is deceased and her mother does not have the financial means to assist her.

The panel considered the appellant's documentary and oral evidence and determined that all of it is admissible under Employment and Assistance Act Section 22(4) as evidence in support of the information before the ministry at reconsideration because it provided additional financial details directly related to her position that she has no resources available to pay for her outstanding utility costs.

The ministry relied on the reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the reasonableness of the ministry's reconsideration decision in which the ministry determined that the appellant was ineligible for a crisis supplement for utilities because her request did not meet the legislative criteria set out in Section 59 of the EAR, specifically that she did not demonstrate that:

- her need was unexpected;
- there were no alternate resources available; and
- failure to obtain the supplement would result in imminent danger to her physical health.

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
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (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 \$40 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.
- (7) Despite subsection (4) (b), 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.

The appellant argues that :

- her need for a crisis supplement for utilities was unexpected because her now-estranged husband had previously paid their share and K did not inform her of the accumulated expenses until 2 months had elapsed; and
- her monthly expenses leave her with no available resources to repay her one-half share the cost of utilities to K, and there is no one to assist her with payment.

The ministry's position is that the appellant is not eligible for a crisis supplement for utilities because she failed to meet the legislative criteria for a crisis supplement under EAR Section 59. In particular:

- the appellant's utility expenses are not an unexpected need or expense because, pursuant to the October 31, 2017 tenancy agreement, the appellant was aware of her obligation to pay one-half of utilities billed to the residence;
- the appellant failed to provide information to demonstrate that she lacks the resources to meet her portion of the utility expenses; and
- the appellant did not provide evidence to establish that failure to receive a crisis supplement would result in imminent danger to the physical health of anyone in the family unit.

Panel Decision

EAR Section 59 (1) states that the minister may provide a crisis supplement for clothing to a family unit that is eligible for income assistance or hardship assistance, if:

1. the supplement is required to meet an unexpected need;
2. there are no resources available to purchase the items; and
3. failure to obtain the items will result in imminent danger to the applicant's physical health.

1. Unexpected Need

During the period November 1, 2017 – October 21, 2018 the appellant cohabited with her ex-husband. They and K developed a system whereby K would pay the full amount of utilities billed to their shared residence and the appellant and her ex-husband would reimburse K for their 50% share of utilities. When the ex-husband left the family unit in October 2018 the appellant knew or ought to have known that as the remaining tenant she remained obligated to reimburse K for 50% of the billed utility amounts.

The panel recognizes that a no-contact order exists between the appellant and her ex-husband, which would have made communication difficult. However, she was able to obtain the required information related to outstanding utility costs from K, and knew that utility costs were a part of her regular monthly expenses.

The panel therefore finds that the ministry reasonably determined that the appellant's need for a crisis supplement for utilities was not unexpected.

2. No available resources to purchase the items

The appellant provided financial information indicating that at the time she applied for a crisis supplement she was receiving a monthly income of approximately \$2,919.96 (income assistance \$1056; EI earnings \$800; child tax benefit \$593.96; child support \$470 = \$2,919.96). Her average monthly expenses excluding food are approximately \$1,700 including car payments and insurance totaling approximately \$625 per month. The panel acknowledges that in 2019 the appellant's income dropped by approximately \$970 because on January 16, 2019 her EI benefits of \$800 per month ceased and child support was reduced by \$170. However, at the time of reconsideration the appellant failed to provide the ministry with an explanation as to why she lacked the resources to pay for her portion of utility expenses. Pursuant to EAR Section 59 (2) a crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

The panel therefore finds that the ministry reasonably determined that there was insufficient information to establish that the appellant lacked the resources to meet the expense.

3. Imminent danger to physical health

The appellant did not submit evidence to establish that she or her child would be in imminent danger from her ex-husband if she remained in her home, and she did not indicate that K or the landlord has threatened or commenced eviction proceedings, which might force them from their home during the winter months.

The panel therefore finds that the ministry reasonably determined that there was insufficient evidence to indicate that failure to obtain the crisis supplement for utilities would result in imminent danger to the appellant's physical health.

CONCLUSION

The panel finds that the ministry's determination that the appellant was ineligible for a crisis supplement for utilities because the legislative criteria in EAR Section 59 were not met is reasonably supported by the evidence, and confirms the decision. The appellant is not successful in her appeal.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME Joan Bubbs	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/Feb/08

PRINT NAME Mel Donhauser	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/Feb/08
PRINT NAME Lauren Forsyth	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/Feb/08