

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision of February 15, 2019 in which the Ministry determined that the Appellant was ineligible for a crisis supplement - utilities to pay an overdue hydro bill because she did not meet all of the legislative criteria set out in Section 57(1) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, the ministry found that the information provided did not establish that the crisis supplement was required by the Appellant to meet an unexpected expense or to obtain an item unexpectedly needed.

**PART D – RELEVANT LEGISLATION**

EAPWDR section 57

## PART E – SUMMARY OF FACTS

The appellant is a recipient of disability assistance.

The information before the Ministry at the time of reconsideration included the following:

- A Request for Reconsideration dated January 3, 2018, signed by the appellant on February 6, 2019 and she wrote:
  - That she asked the ministry to help pay her hydro bill of \$483.22 because she had missed paying her December 2018 payment to hydro, which was for a payment plan she had set up;
  - That she missed the payment because she unexpectedly had to pay for her son's tuition payment for his school course when the person who loaned her the money demanded payment in December rather than January as she had made arrangements for, and that she used her December hydro payment money to pay the tuition instead;
  - That she had contacted hydro to explain her situation and offered to make two payments in January to make it up, however they said no and informed her that because she had missed the December payment that they now required payment of the full amount of \$483.22;
  - That she has since received a new bill from hydro for period November 6, 2018 to January 4, 2019 and the total bill is now \$1701.40;
  - That she has applied for the customer crisis fund with hydro and believes she will be eligible for \$600; and
  - That she is having health problems and may be hospitalized so she cannot be without electricity as her heat and hot water are all electric.
- A Hydro bill for the period September 6, 2018 to November 5, 2018, which reflected that a Catch-Up Installment Payment of \$107.50 was made on November 6, 2018 and that current charges for this period were \$483.22.
- A Hydro bill for the period November 6, 2018 to January 4, 2019 which included: the previous bill of \$483.22; Catch-up payment plan cancelled December 24, 2018 with \$429.99 owing; a payment of \$107.50 received November 22, 2018 with a total balance forward of \$805.71; and electricity charges of \$878.77 for the period November 6, 2018 to January 4, 2019, with a total amount due of \$1701.40.

On the Notice of Appeal form signed by the Appellant on February 27, 2019, she wrote that she disagreed with the ministry's decision due to the fact that she did have an unexpected expense in December and that she has an electric furnace, stove and hot water tank, therefore being disconnected is putting she and her son at risk. The appellant also wrote that she has made a payment of \$450.

At the hearing, the appellant explained that her son, \_\_\_\_\_, had an opportunity to take an additional course that would provide him with the equivalent of a first year apprenticeship in a trade. The cost of this course was \$1500 for which she borrowed the money with a payment schedule of \$375 per month from September 2018 to December 2018. The appellant stated she also had made a payment arrangement with BC Hydro to pay \$107.50 per month from October 2018 to pay for an overdue bill. The appellant states she made payments on both until December 2018 when she realized she would have extra expenses in December and would not be able to pay for both. She states she made arrangements with the person she had borrowed the tuition money from to pay for the December payment in January, however, just before Christmas the person insisted they had to be paid, and she argues that this was an unexpected expense for her. The appellant called BC Hydro to ask if she could pay the December \$107.50 payment in January but was informed that if she did not make the payment that her account would be subject to disconnection. The appellant explained that she did attempt to borrow the money to pay for the \$107.50 Hydro payment but was not able to, and that she asked about the Crisis Assistance Plan with Hydro and was told that because her bill was in excess of \$1,000 that she was not eligible for it.

The appellant made the decision to pay the tuition payment and was then informed by BC Hydro that because she had missed the December \$107.50 payment that her entire bill of \$1701.44 was due and she would be disconnected if it was not paid. The panel asked the appellant whether she had considered paying the BC Hydro payment and only a portion of the tuition payment, and she stated she had, however he would not accept partial payment. The appellant states she had no other resources available to her to pay the hydro bill and as all the appliances in her home run on electricity that she is facing danger to her health. The appellant states she made a payment of \$450 earlier in March so the overdue amount is now \$1251 plus she just received her current bill, which

is an additional \$1210, for a total owing of over \$2400. The appellant states that she has made arrangements with BC Hydro to go on an Equal Payment amount of \$251 per month for the future, however she must clear up the overdue amounts and she has no way of doing this. The appellant states that she is seeking crisis assistance to bring her BC Hydro bill below \$1,000. The ministry representative recommended the appellant contact BC Hydro again as she indicated that she was making an additional payment of \$400 today which would bring her overdue amount to approximately \$800, which is less than the \$1,000 and she may be eligible for the \$600 Hydro Crisis Assistance if she re-applies to BC Hydro and speaks to a supervisor.

At the hearing, the ministry reviewed the legislation for crisis supplements, noting that there are three conditions which all must be met. The ministry acknowledges that the appellant has sought out all other resources so that condition is met and that she would face imminent danger if her hydro was disconnected and that condition is met, however they argue that she does not meet the condition for an unexpected expense. The ministry argues that the appellant was aware that she had a BC Hydro payment to make, and that she would be facing disconnection if she didn't make the payment; however she made a choice to pay the tuition payment instead. The ministry acknowledged that it is a difficult choice to have to make; however it is necessary to pay for necessities such as utilities prior to other expenses.

The ministry pointed out that BC Hydro will try to accommodate payment arrangements wherever possible, and that it appears, in the appellant's situation, that they have done so by continuing to keep her hydro connected and allowing her make payments. In the Reconsideration Decision the ministry noted that she did not make the December payment to BC Hydro even after she had initially been told she did not have to make the tuition payment until January.

#### **Admissibility of Additional Information**

There was no additional information provided in writing or in person that was not in support of information that was before the ministry at the time of reconsideration.

## **PART F – REASONS FOR PANEL DECISION**

The issue under appeal is the reasonableness of the ministry's Reconsideration Decision dated February 15, 2019 wherein the ministry denied the Appellant a crisis supplement – utilities to pay an overdue Hydro bill. Specifically, the ministry found that the information provided did not establish that the crisis supplement was required by the Appellant to meet an unexpected expense or to obtain an item unexpectedly needed.

The panel must determine whether the ministry's decision that the Appellant did not satisfy the statutory criteria as set out in section 57(1) of the EAPWDR was either reasonably supported by the evidence or was a reasonable interpretation of the legislation in the circumstances of the Appellant.

The relevant legislation is as follows:

### **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*.
- (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;
  - (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 disability 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.

The appellant's position is that she faced an unexpected expense when she had to pay for her December 2018 tuition loan after the person had agreed to suspend the December payment until January 2019, and then unexpectedly demanded payment just before Christmas. The appellant argues that she did contact BC Hydro to try to arrange deferment of the December payment until January, however BC Hydro informed her that they could not defer payment and no one else could assist her. The appellant argues that she is also concerned that if her hydro is disconnected she will not have the ability to heat or cook.

The ministry's position is that in order to be eligible for a crisis supplement the request must meet all the conditions set out in section 57(1) of the EAPWDR. The ministry agrees that the appellant met the condition of section 59(1)(b) that there are no resources available to her and (c) that she was facing imminent danger to her health. However, the ministry argues that she does not meet section 59(1)(a) which requires that the crisis supplement is for an unexpected expense or to obtain an item unexpectedly needed because the appellant was aware that she had made an arrangement to pay for her overdue hydro, and had been making these payments for several months, yet made the choice to pay the tuition rather than her utility bill even though she knew she would be facing disconnection.

### **Panel Decision**

**Section 57(1)** of the EAPWDR states that there are specific conditions that must be met to qualify for a crisis supplement. The panel must consider the facts of this case as it applies to the legislation.

**The first condition is that the item must be for an unexpected expense, or an item unexpectedly needed.**

The panel notes in the Appeal Record that there are BC Hydro statements that confirm that the appellant was set up for a payment plan with them to catch up arrears, and the appellant confirmed that she had made payments for October and November 2018. In regards to the appellant's argument that she unexpectedly had to pay the tuition payment after having been told it would not have to be paid until January 2019, it is the panel's opinion that it was the appellant's decision to pay the tuition loan over the BC Hydro payment, even though she had contacted BC Hydro prior to making this decision and had been informed that if she did not make the payment of \$107.50 that her entire bill would be immediately due, that put her in the disconnect situation. The panel finds, in the appellant's circumstance, that payment of the BC Hydro bill was not an unexpected expense or item unexpectedly needed.

**The second condition is that the appellant is unable to meet the expense or obtain the item because there are no resources available to the family unit.**

The ministry was satisfied that the appellant had no resources available to pay the overdue hydro bill and avoid disconnection so found that this condition had been met, and the panel agrees.

**The third condition is that failure to obtain the item will result in imminent danger to the appellant's physical health.**

The ministry was satisfied that failure to pay the overdue hydro bill would result in imminent danger to the appellant's physical health as she was facing disconnection and would be unable to cook, store food or heat her home so found that this condition had been met, and the panel agrees.

The panel notes that all three conditions of section 57(1) EAPWDR must be satisfied to be eligible for a crisis supplement and finds that the appellant did not meet all the conditions.

### **Conclusion**

The panel finds that the ministry's decision that the appellant was not eligible for a crisis supplement under section 57 EAPWDR was a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's decision in accordance with section 24(1)(b) and 24(2)(a) of the Employment and Assistance Act. The appellant is not successful on appeal.

[Redacted]

**PART G – ORDER**

THE PANEL DECISION IS: (Check one)       UNANIMOUS       BY MAJORITY

THE PANEL       CONFIRMS THE MINISTRY DECISION       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?       Yes       No

**LEGISLATIVE AUTHORITY FOR THE DECISION:**  
*Employment and Assistance Act*  
Section 24(1)(a)  or Section 24(1)(b)   
and  
Section 24(2)(a)  or Section 24(2)(b)

**PART H – SIGNATURES**

PRINT NAME Janet Ward	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019 March 21

PRINT NAME Stephanie Korour	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 March 21

PRINT NAME Linda Pierre	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 March 21