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| APPEAL NUMBER |
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PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction ("ministry") reconsideration decision, dated May 7 2019, determining that the Appellant was not eligible for a crisis supplement for utilities because he did not meet the criteria set out in section 59 of the Employment and Assistance Regulation (EAR). The Ministry determined that the appellant had not demonstrated that the expense was unexpected as required under Section 59(1)(a).

PART D – RELEVANT LEGISLATION

Employment and Assistance Act (EAA) – section 24

Employment and Assistance Regulation (EAR) – section 59

PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

The appellant contacted the ministry to request a crisis supplement for hydro on March 26, 2019.

The ministry contacted the appellant on April 2, 2019 to discuss his request and advised him that he was not eligible for a crisis supplement for hydro because he had not met all of the required criteria set out in the legislation.

The appellant requested reconsideration of this decision. In his request for reconsideration dated May 2, 2019 the appellant provided the following reasons for his request: *I thought I could sell my truck by now. It is worth \$7000.00. But no buyer yet. And my neighbor has expressed interest in growing my medical pot for me.*

The ministry determined, in a reconsideration decision dated May 7, 2019, that the appellant was not eligible for a crisis supplement for hydro because he had not met all of the required criteria set out in the legislation.

Additional information before the panel on appeal consisted of the following:

Notice of Appeal

In the Notice of Appeal dated May 16, 2019, the following reasons for appeal were provided: *I believe I meet the criteria now. Unexpected events are happening all the time. No. 1 criteria unexpected need.*

Appeal Submissions

The appellant did not make appeal submissions.

The ministry relied on the reconsideration decision.

Admissibility

The panel finds that the information provided in the appellant's Notice of Appeal is not new information requiring an admissibility determination in accordance with section 22(4)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry's reconsideration decision dated May 7, 2019, determining that the appellant was not eligible for a crisis supplement because he had not demonstrated that all legislative criteria in section 59(1) of the *Employment and Assistance Regulation* had been met, was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

The ministry was not satisfied that the appellant had demonstrated that the hydro bill was an unexpected expense (in itself, or indirectly, for example that an unexpected expense prevented him from paying the bill) in accordance with section 59(1) (a). The ministry was satisfied that the appellant had provided sufficient evidence to demonstrate that failure to obtain funds would place the appellant's physical health in imminent danger and that there were no resources available to cover the cost.

The legislation provides:

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) 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 \$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.
- (5) and (6) Repealed. [B.C. Reg. 248/2018, App. 1, s. 2.]
- (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.

Section 59(1) of the EAR allows the minister to provide a crisis supplement to a family unit that is eligible for income or hardship assistance if the following three criteria are met: 1) the item or expense is unexpected, 2) there are no resources available to meet the expense, and 3) failure to meet the expense will result in imminent danger to physical health or removal of a child. In this appeal only the first criterion (unexpected expense) is at issue because the ministry found that both the second and third criteria had been met.

Unexpected Need

Section 59(1)(a) states the applicant must require the supplement to meet an unexpected expense or obtain an item unexpectedly needed. In the reconsideration decision the ministry concluded that because hydro is based on consumption and the appellant is growing marijuana it is not unexpected that his hydro consumption would be high nor that his bill would be high. The ministry argued that it is not unexpected that a person would receive a disconnection notice if the hydro bill were not paid. The ministry argued in the reconsideration decision that while the appellant's mother's will stated that insurance, taxes, repairs and other costs related to general upkeep are to be paid by the trust, this is in dispute and BC Hydro is not directly specified (the Panel notes that the trust is presumably a trust established from the appellant's mother's estate). The ministry concluded that because the appellant lives at the residence, the charges are based on consumption and the appellant knows the bill is not being paid by the trust the bill is not unexpected nor has an unexpected expense prevented the appellant from paying the bill. The ministry determined that this criterion had not been met.

The panel finds, based on the information provided, that the ministry's conclusion that the Appellant has not established that the expense was unexpected as required under Section 59(1)(a) was not reasonably supported by the evidence nor a reasonable application of the legislation in the appellant's circumstances. In reaching this conclusion, the panel notes that the ministry's interpretation and application of the legislation would mean that a hydro expense should virtually never be unexpected as everyone's hydro bill is based on consumption and everyone should know that they will receive a disconnection notice if the bill is not paid by themselves or another party. The panel finds that this interpretation would render section 59(7)(d) useless. Furthermore, the panel finds that the ministry has failed to demonstrate that it has considered whether it was unexpected for this appellant to find himself responsible for the hydro bill. The panel notes that the appellant had been living with his mother prior to her death in late 2018 and that he has continued to reside in her home, in accordance with the provisions of the will, after her death. The panel notes that the will, which is in evidence before the panel, specifies that all costs, including property taxes, insurance, repairs and any other charges or amounts necessary for the general upkeep of the property and contents are to be paid by the estate. The panel finds that minister appears to have concluded that because BC Hydro is not 'directly specified' it must not be included in these costs paid by the estate. The panel finds this interpretation unreasonable. Furthermore, the panel notes that the Hydro bill itself, which is also in evidence, is not addressed to the appellant alone in his personal capacity as the individual responsible for the bill. Rather, the bill is directed to the appellant as well as the estate of his mother. In light of these facts, which appear not to have been considered in the ministry's analysis, the panel finds that the bill is an unexpected expense, not in the sense that it exists and is based on consumption, but in the sense that the appellant would not have expected to be personally responsible for its payment.

Conclusion

The panel finds that the ministry's reconsideration decision, which held that the appellant was not eligible for a crisis supplement for hydro because he did not meet all of the legislated criteria in section 59 of the EAR, is not a reasonable application of the legislation in the circumstances of the appellant nor reasonably supported by the evidence. The panel rescinds the ministry's reconsideration decision. The appellant is successful on appeal.

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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

Jennifer Smith

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/07/02

PRINT NAME

Sarah Bijl

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/02

PRINT NAME

Don Stedeford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/07/02