

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 29, 2019, which determined that the appellant was not eligible for a crisis supplement for utilities because their request did not meet the criteria set out in Section 57 of the Employment and Assistance for Persons with Disabilities Regulation.

Specifically the ministry found that the hydro and telecommunication bills were not unexpected expenses, that there were sufficient resources to pay the bills, and that there was no imminent danger to the appellant's physical health if the bills were not paid.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 57 and Schedule A

PART E – SUMMARY OF FACTS

The appellant was not in attendance at the hearing. After confirming that the appellant was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

Relevant Evidence Before the Minister at Reconsideration

Ministry records show that on October 28, 2019 the appellant requested a crisis supplement for utilities and on November 5, 2019 was advised the request was denied.

Reason for Request for Reconsideration - November 15, 2019

The appellant needs help to pay the hydro and telecommunications bills. At their place of residence, a cooler was turned on in the hallway and as a result the appellant was using two heaters, “racks up my hydro”. One heater has since broken. The appellant has asthma and so needs to keep warm as they don’t do well with colds and don’t want to get sick. An extra \$200 - \$300 a month is required for food and spending money. The appellant is trying to obtain a clothing grant - to go for job interviews, new clothes, not used.

Ministry records show:

- The appellant is a single recipient of disability assistance and receives \$375 shelter allowance and \$808.42 support allowance from the ministry before CPPD (Canada Pension Plan Disability) income of \$766.33 is deducted.

Hydro bill (billing date October 21, 2019)
\$85.61- Total Due, by November 12, 2019
“Balance Forward \$0.00”

Telecommunications bill (September 25, 2019)
“Balance forward from your last bill.....\$0.00”
“Total due....\$87.56”
“The total due will be charged to your bank account on October 11.”

Additional Evidence**Appellant**Notice of Appeal – December 9, 2019**Reasons for Appeal**

“I am unemployed & making ends meet is difficult my rent exceeds the ministry’s payment of \$450.⁰⁰. I am glad CPP gives me \$766.33 to cover needs just at the level of barely getting by. I’m also dealing with identity theft.”

Photos of letters addressed to a credit agency’s fraud department were attached to the Notice of Appeal.

On December 9th and 10th, 2019 the appellant submitted emails with additional contact information (address and four emails). On December 16th, 2019 the ministry received a submission from the appellant - photo of Instagram page.

Ministry

At the hearing, the ministry based its presentation on the reconsideration decision.

The panel determined the information in the Notice of Appeal regarding identity theft, as well as the photos of letters addressed to a credit agency's fraud department, the emails with additional contact information and the photo of the Instagram page, are not admissible as evidence under section 22 of the *Employment and Assistance Act*, as this information is not in support of the information and records before the minister when the decision being appealed was made.

The panel determined the rest of the information in the Notice of Appeal to be argument.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's reconsideration decision, dated November 29, 2019, which determined that the appellant was not eligible for a crisis supplement for utilities because their request did not meet the criteria set out in Section 57 of the EAPWDR was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically did the ministry reasonably determine that the hydro and telecommunication bills were not unexpected expenses, that there were sufficient resources to pay the bills, and that there was no imminent danger to their physical health if the bills were not paid?

The legislation provides:

Employment and Assistance for Persons with Disabilities Act**Disability assistance and supplements**

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

Employment and Assistance for Persons with Disabilities Regulation**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...

Schedule A

Disability Assistance Rates

(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule...

Monthly support allowance

2 (0.1) For the purposes of this section:

...

- (1) A monthly support allowance for the purpose of section 1 (a) is the sum of
- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, ...

Item	Column 1 Family unit composition	Column 2 Age or status of applicant or recipient	Column 3 Amount (\$)
1	Sole applicant / recipient and no dependent children	Applicant / recipient is a person with disabilities	808.42

Monthly shelter allowance

(2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

Appellant Argument

The appellant's position is that they are unemployed and therefore making ends meet is difficult. Rent exceeds the ministry's payment of \$450 and CPP provides \$766.33 to cover the appellant's needs, which is just at the level of barely getting by.

The appellant needs help to pay the hydro and telecommunications bills. At their place of residence, a cooler was turned on in the hallway and so they were using two heaters that "racks up my hydro". One heater has since broken. The appellant has asthma and so needs to keep warm as they don't do well with colds and don't want to get sick. An extra \$200 - \$300 a month is required for food and spending money.

Ministry Argument

The ministry argues that the purpose of crisis supplements is to address unexpected emergency needs to prevent imminent danger to health and is not intended to augment monthly assistance.

The appellant has not demonstrated that the hydro or telecommunications bills are an unexpected expense. Although they indicated that the landlord turned on the cooler in the hallway, the ministry argues that the information provided has not shown that this is unexpected or that the hydro bill is unexpected as a result.

The ministry also argues that the appellant has not shown that there is a lack of resources to pay the telecommunications bill and as the hydro account is current; the information provided does not show that the appellant lacks the resources to pay the hydro bill either.

The ministry also argues that the appellant is able to warm the home and has not demonstrated imminent danger to physical health. The hydro bill is not overdue or facing disconnection.

Regarding the telecommunications bill, the payment has been maintained and the appellant has not shown that failure to pay the telecommunications bill would result in imminent danger to physical health.

Analysis

Section 57 of the EAPWDR states that, "The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance...if...a person in the family unit requires the supplement to meet an unexpected expense...and is unable to meet the expense...because there are no resources available to the family unit, and ...the minister considers that failure to meet the expense...will result in imminent danger to the physical health of any person in the family unit..."

Section 57(1)(a) – unexpected expense and no resources

The appellant's argument is that they are unemployed, barely getting by and therefore need help to pay the hydro and telecommunications bills. At their place of residence, a cooler was turned on in the hallway and so the appellant was using two heaters, which will result in increased hydro costs.

The ministry argues that the purpose of crisis supplements is to address unexpected emergency needs to prevent imminent danger to health and the appellant has not demonstrated that the hydro or telecommunications bills are an unexpected expense nor that there is a lack of resources to pay the bills.

The panel notes that the evidence submitted (hydro and telecommunications bills) do not demonstrate that these bills are an unexpected expense as both the hydro and telecommunications bills show zero

balances from previous bills – indicating these bills are not the first ones. As well, it is commonly known that utility bills are issued on a regular cycle and therefore, without some other unexpected circumstance, cannot be considered unexpected.

In addition, as there is no balance previously owing on either bill, this indicates that there were resources available to pay the bills.

Although they are anticipating higher hydro costs due to using the heaters, the panel finds there are no provisions under section 57 of the EAPWDR to provide a crisis supplement for anticipated higher hydro costs.

Section 57(1)(b)(i) – failure to meet expense will result in imminent danger to the physical health

The appellant's position is that they have asthma and so need to keep warm. The ministry argues that the appellant is able to warm the home and has not demonstrated imminent danger to physical health. The hydro bill is not overdue or facing disconnection.

The panel notes that although the appellant has asthma, and doesn't do well in the cold, there is insufficient evidence to suggest that the heat will be discontinued in the near future. And, there is insufficient evidence to demonstrate how not paying the telecommunications bill will cause imminent danger to the appellant's physical health.

Schedule A – EAPWDR – monthly support and shelter allowances

The appellant argues that an extra \$200 - \$300 a month is required for food and spending money.

The ministry argues that the purpose of crisis supplements is to address unexpected emergency needs to prevent imminent danger to health and not intended to augment monthly assistance.

Schedule A of the EAPWDR includes the amounts of monthly support and shelter allowances for a family unit. Ministry records show the appellant is a single recipient of disability assistance and receives \$375 shelter allowance and \$808.42 support allowance from the ministry before CPPD income of \$766.33 is deducted. The information in schedule A shows these amounts are the maximum allowable for one person.

The panel finds there are no provisions under section 57 of the EAPWDR to provide a crisis supplement to supplement support and shelter allowances.

The panel acknowledges that it may be difficult for the appellant to meet all the necessary expenses; however the panel is bound by legislation.

Conclusion

In conclusion, the panel finds the ministry's decision was reasonably supported by the evidence. The panel finds that the ministry reasonably determined that the hydro and telecommunication bills were not unexpected expenses, that there were sufficient resources to pay the bills, and that there was no imminent danger to the appellant's physical health if the bills were not paid.

The appellant is not successful on appeal.

APPEAL NUMBER

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

Connie Simonsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/12/31

PRINT NAME

Julie Iuvancigh

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/31

PRINT NAME

Diane O'Connor

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/12/31