

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated October 25, 2022 (the “Reconsideration Decision”), in which the Ministry determined that the Appellant was not eligible for a crisis supplement for utility costs, specifically hydro, because the Appellant had not satisfied all the requirements of section 59 of the *Employment and Assistance Regulation* (“EAR”) and, in particular, the Ministry was not satisfied the need to pay for hydro was unexpected.

Part D – Relevant Legislation

EAR- section 59

Part E – Summary of Facts

The Appellant is a sole recipient of income assistance.

The information before the Ministry at the time of the Reconsideration Decision included the following:

- a hydro bill for the period from May 1, 2019 to June 17, 2019, showing a total amount due of \$2,935.98;
- a letter from BC Hydro, dated March 27, 2020, setting out that \$3,094.49 was owed and that BC Hydro reserved the right to take legal action to recover the outstanding amount (the “March 2020 Letter”);
- a hydro bill, dated March 27, 2020, in the amount of \$3,094.49, most of which consisted of charges related to “electrical energy diversion” (the “March 2020 Bill”);
- a letter from BC Hydro, dated June 10, 2020, setting out that \$3,094.49 remained outstanding;
- the Appellant’s Request for Reconsideration, dated October 13, 2022, which included a handwritten note from the Appellant, which explained that:
 - the outstanding hydro account was cutting into his grocery money;
 - the Appellant was losing weight, was stressed, couldn’t cook a proper meal, or have clean clothes or a shower;
 - the lack of electricity was also affecting the Appellant’s mental health; and
 - that he was embarrassed to go out in public due to poor hygiene.

At the hearing of the appeal, the Appellant set out that he worked as a logger and was hoping to get back to work and save enough to pay off the BC Hydro account but while not working, he couldn’t afford it right now. The Appellant described being able to make do without hydro in the summer months but was not able to do so in the winter. The Appellant stated that not having electricity was impacting his life in every way. The Appellant lives about 45 minutes outside of the nearest town and does not have a driver’s license. Not having electricity has, according to the Appellant, impacted everything from bathing and grooming to doing laundry and being able to cook for himself. The Appellant described his current circumstances as also being a limitation of his ability to find work, as well as having an impact on his mental health.

The Appellant denied knowing how the BC Hydro bill got so high and surmised that it may have been a result of a break-in from several years earlier where it appeared that someone had squatted at the property, which the Appellant described living at on behalf of an estate of which he is the administrator.

The Appellant stated that he was not sure and did not know what is meant by energy diversion on the BC Hydro account. He also advised the panel that he had paid \$500.00 as an inspection fee for re-connect hydro service and had previously tried to pay as much of the outstanding bill as possible. The Appellant indicated that he has not been able to work out any re-payment arrangement with BC Hydro, despite several attempts at doing so. The Appellant confirmed having received the March 2020 Letter and bill but put off paying it as he could not afford it. He also indicated not fully having understood how the BC Hydro bill got so high.

At the hearing, the Ministry stated that the Appellant had known about the outstanding account since 2020. The Ministry stated that it would not be unexpected, in 2022, for the Appellant to know that he needed to pay the outstanding account, particularly given that the Appellant had also requested a crisis supplement in 2021 to deal with the outstanding BC Hydro account. The Ministry stated that BC Hydro confirmed that the energy diversion charge referred to the Appellant having received electricity without having paid for it.

The panel admits the evidence given at the hearing of the appeal as evidence that is not part of the record but reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a crisis supplement for utility costs, specifically hydro, because the Appellant had not satisfied all the requirements of section 59 of the *EAR* and, in particular, the Ministry was not satisfied the need to pay for hydro was unexpected.

Panel Decision

To be eligible for a crisis supplement, all the criteria in section 59 must be met. In the case of the Appellant, the only criterion that the Ministry found had not been met was the requirement that the supplement for the outstanding hydro account was unexpected or required to meet an unexpected expense.

Unexpected, in the English language, generally means something that is surprising. Webster’s defines unexpected as “not expected : unforeseen.” Although he noted it was a surprise to him at the time, the Appellant confirmed that he became aware of the large outstanding Hydro charges as early as when he received the March 2020 Letter and the March 2020 Bill. Leaving aside the issue of whether the Appellant had engaged in electrical energy diversion, the March 2020 Letter threatened legal action if the outstanding account was not paid. Given the tone of the March 2020 Letter, it is reasonable to think that the Appellant ought to have been aware that he could be without electricity until the outstanding account was paid in full. That the Appellant applied for a crisis supplement in 2021 in respect of the same matter also indicates an awareness that the account needed to be paid prior to having electrical services restored. In short, given the Appellant’s prior knowledge, dating back to the early part of 2020 of the debt owed to Hydro, the panel finds that it was reasonable for the Ministry to conclude that those circumstances were not unexpected. In the result, the panel finds that the Ministry reasonably determined that the Appellant had failed to satisfy all of the criteria in section 59 of the *EAR* and, in particular, the requirement in section 59(1)(a) of the *EAR* that he “requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed.”

In view of all of the foregoing, the Appellant is not successful in this appeal.

Relevant Legislation

Section 59 of the *EAR* authorizes the Ministry to pay crisis supplements and describes the eligibility criteria for crisis supplements:

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 sum of
 - (A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or
 - (B) the maximum set out in Table 1 of Schedule D and the maximum set out in 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;

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(c) water;
(d) hydro.

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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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2022/December/2

Print Name

Robert Kelly

Signature of Member

Date (Year/Month/Day)

2022/December/3

Print Name

Carmen Pickering

Signature of Member

Date (Year/Month/Day)

2022/December/3