

Part C - Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 14, 2023, that denied the appellant's request for a crisis supplement for hydro.

Part D - Relevant Legislation

Employment and Assistance Act Section 4

Employment and Assistance Regulation Section 59

Please see the attached copy of the applicable legislation in Appendix A.

Part E – Summary of Facts

From ministry files:

The appellant is a sole recipient of income assistance and receives \$1060 per month for income assistance. This amount includes \$560 for a support allowance and \$500 for a shelter allowance. The appellant pays \$900 in rent each month.

On October 17, 2023, the appellant requested a crisis supplement for hydro reporting he had lost a job he had gotten through WorkBC that was supposed to be a long-term position. The appellant advised that he is unable to pay his hydro bill due to this job loss. The appellant currently owes BC Hydro \$150.08, and his hydro has been disconnected. The appellant has no resources to pay the overdue bill.

On October 18, 2023, the ministry reviewed the appellant's request for a crisis supplement for hydro and determined that the appellant is not eligible for the supplement because he did not meet all the criteria. The ministry noted that BC Hydro reported two payments made in October 2022 (sic) for a total of \$150.08 and that the appellant's hydro services were reconnected.

On October 27, 2023, the appellant submitted a request for reconsideration. The appellant reported that the BC Hydro service to his apartment has been disconnected again.

Additional InformationAppellant

During the tribunal hearing the appellant explained that his hydro had first been cut off in mid October. The appellant visited the BC Hydro website to review his account status and accidentally selected a button that reported a payment. BC Hydro briefly reconnected the appellant's power, and then disconnected it again (likely when they realized that a payment had not, in fact, been made.)

The appellant stated he had sent an email to the ministry via My Self Serve BC, explaining the mistake he made in reporting a payment to BC Hydro. During the hearing, the appellant looked up and read emails he sent to the ministry via My Self Serve BC. The panel asked what response the ministry gave about his power being disconnected again.

The appellant said that the ministry did not address the second power disconnection issue in a reply email.

A few days later, possibly October 23, BC Hydro turned off the appellant's hydro again after determining that a payment had not been made.

In response to a panel member's question, the appellant confirmed that his power has not been reconnected and that he has been without power for weeks.

A panel member asked if the appellant had documentation of his BC Hydro account transactions for October 2023. The appellant stated that he had accessed this documentation from his BC Hydro account and provided it either to the ministry or to the tribunal, via Service BC. The appellant explained that this has been a confusing process for him. The appellant's BC Hydro transaction information is not included in the hearing appeal record. When asked, the ministry representative noted that this documentation from BC Hydro does not appear to be in the appellant's file either.

The appellant also explained that he did not have money to pay his hydro bill of \$150.08. His rent has been increased, and he is now paying \$931.50 per month. The remainder of his income assistance of \$1060 per month was used in October for a bus pass as the appellant is looking for work, and for a small supply of groceries.

Ministry

The ministry representative relied on the reconsideration decision during the appeal hearing.

A panel member asked how the ministry gathered information about the appellant's BC Hydro payment and power status. The ministry representative explained that when the ministry receives a request for a crisis supplement for hydro, a ministry worker contacts BC Hydro by telephone and is given this information.

A panel member also asked if there is supporting information in the appellant's file from BC Hydro to confirm that the appellant allegedly made two payments to cover his outstanding account of \$150.08. The ministry representative could not locate supporting information about this matter in the appellant's file.

The panel member asked if the ministry had contacted BC Hydro again after the appellant told them his hydro bill had not, in fact, been paid, and that his power was now disconnected. The ministry representative looked at the appellant's file and could not see any notations about a second enquiry being made with BC Hydro.

Admissibility

The panel determined the additional information is required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision was supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, was the ministry reasonable to decide that the appellant was not eligible for a crisis supplement for hydro?

Appellant Position

The appellant argues that he mistakenly reported a payment to BC Hydro, and that BC Hydro subsequently disconnected his power for a second time when the company determined that payment had not been made. The appellant does not have funds to pay his hydro bill and his power remains disconnected.

Ministry Position

The ministry argues that it received confirmation from BC Hydro of the appellant having made two payments to cover his \$150.08 power bill in October and that the appellant's power was restored. Because the appellant made his hydro payment, he does not meet the legislative criteria to receive a crisis supplement for hydro. Specifically, making payment proves that he did have the needed financial resources, and because his power had been turned on again, he was not facing imminent danger to his health.

Panel AnalysisLegislation

Section 59(1) of the Employment and Assistance (EA) Regulation states a crisis supplement may only be provided if all the following eligibility criteria are met:

- The family unit is eligible for income assistance or hardship assistance **and**
- The need for the item is not expected or there is an unexpected expense **and**
- There are no resources available **and**
- Failure to obtain the item or meet the expense will lead to imminent danger to your physical health or a child being removed under the *Child, Family and Community Service Act*.

Eligibility for income assistance or hardship assistance

In its reconsideration decision, the ministry notes that the appellant is eligible to receive income assistance for the month of October 2023 and therefore is eligible to receive supplements provided all other criteria are met.

The need for the item is not expected or there is an unexpected expense

In the ministry's reconsideration decision, it is noted that the appellant lost a job he had secured through WorkBC, that was supposed to be a long-term position. The ministry stated that this is something the appellant could not have planned or budgeted for and would have resulted in a reduction in income. The ministry noted that it is satisfied the appellant's need to pay the hydro bill is due to unexpected circumstances.

There are no resources available

The ministry's files show that BC Hydro reported that the appellant's outstanding bill of \$150.08 was fully paid in two payments and that the appellant's power had been reconnected. The ministry is not satisfied that the appellant does not have the resources to pay the hydro bill because the bill was paid.

The panel found the appellant to be credible in his claim that he mistakenly reported a payment of \$150.08 to BC Hydro and that he did not have resources to make a payment. The appellant's claim is supported by his testimony that he remains without power weeks later.

The discrepancy of whether one or two payments were made to BC Hydro was addressed in the appellant's Request for Reconsideration application. Section Two of this application, completed by the ministry states, "The Ministry spoke with BC Hydro who confirmed that a **payment of \$150.08** [emphasis added] was made and as [sic] result your service was reconnected." It appears that the ministry erred in its Reconsideration Decision by stating that two payments had been made. This lends credibility to the appellant's explanation of events surrounding this appeal claim.

The ministry representative explained that the ministry's practice is to confirm a client's power situation with BC Hydro directly. The ministry does not have record of contacting BC Hydro for a second time to confirm if the appellant's hydro was

disconnected again. The panel notes the ministry appears to have not followed up on the appellant's power service status despite the appellant clearly stating in the request for reconsideration dated 27 October 2023, that his power had been disconnected.

When asked about the overall contents of the appellant's file regarding this matter, the ministry representative was not able to confirm details about the ministry's initial conversation with BC Hydro, communication from the appellant about his error in reporting a payment to BC Hydro, or a second conversation with BC Hydro to confirm if the appellant's power had been disconnected again.

Weighing the appellant's testimony and information provided in comparison to the ministry's information gaps in the appellant's file (and the error stating that two payments had been made in October 2022 (sic)), the panel concludes that the ministry was not reasonable in its finding that the appellant had resources to pay the hydro bill.

Failure to obtain the item or meet the expense will lead to imminent danger to your physical health

In its reconsideration decision, the ministry explained BC Hydro reported that the power bill of \$150.08 was paid and the appellant's power was restored. Accordingly, the appellant's physical health is not in danger, and this legislative requirement was not met.

Per above, the panel found the appellant to be credible in his claim that he mistakenly reported a payment of \$150.08 to BC Hydro, that his power was subsequently disconnected in late October, and that his power remains disconnected weeks later. In addition, the ministry does not have a record of contacting BC Hydro for a second time to confirm if the appellant's power had been disconnected again.

The ministry observed that the appellant did not meet the legislative requirement that failure to obtain the item or meet the expense will lead to imminent danger to the appellant's physical health because his hydro bill was paid, and power was reconnected.

The panel accepts the appellant's testimony that his power remains disconnected. The panel agrees with the ministry's reasoning in its reconsideration decision that lack of power would constitute an imminent danger to the appellant's health, the panel finds that this element of the legislative criteria has been met.

Conclusion

In conclusion, the panel finds the ministry decision that determined that the appellant was not eligible for a crisis supplement for hydro because he did not meet all the requirements in Section 59(1) of the Regulation was not reasonable. The appellant did meet all requirements and the ministry's reconsideration decision was not supported by the evidence.

The appellant is successful on appeal.

Appendix A Applicable Legislation

Employment and Assistance Act Section 4

Income assistance and supplements

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

Employment and Assistance Regulation Section 59

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 \$50 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, the maximum set out in section 4 of Schedule A and any supplements provided under section 56.2 [pre-natal shelter supplement] or Division 8 [Housing Stability Supplement] of Part 5 of this regulation, or

(B) the maximum set out in Table 1 of Schedule D, the maximum set out in

Table 2 of Schedule D and any supplements provided under section 56.2 or Division 8 of Part 5 of this regulation, as applicable, for a family unit that matches the family unit, and

(c) if for clothing, the maximum amount that may be provided in the 12 calendar month period preceding the date of application for the crisis supplement is \$110 for each person in the family unit.

(5) Repealed. [B.C. Reg. 248/2018]

(6) Repealed. [B.C. Reg. 248/2018]

(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.

[am. B.C. Reg. 12/2003.]

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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

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

Melissa McLean

Signature of Chair

Date (Year/Month/Day)

2023/11/30

Print Name

Don Stedeford

Signature of Member

Date (Year/Month/Day)

2023/11/30

Print Name

Corrie Campbell

Signature of Member

Date (Year/Month/Day)

2023/11/30