

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) Reconsideration Decision (RD) dated March 7, 2024 which found that the appellant was not eligible for a crisis supplement for reimbursement of funds she paid to BC Hydro under Section 5 of the Employment and Assistance Persons with Disabilities Act (the Act) and Section 57(1) of the Employment and Assistance Persons with Disabilities Regulation (the Regulation).

The ministry determined that the Appellant meets the criterion of the Act Section 5 as the Appellant is designated as a Person with Disabilities (PWD) and is thereby eligible for a crisis supplement if the Appellant also meets the criteria in the Regulation Section 57(1).

However, the ministry determined that the Appellant did not meet any of the three criteria in Regulation Section 57(1). Specifically, the ministry determined that:

- The crisis supplement is not required to meet an unexpected expense, or an item unexpectedly needed.
- There were other resources available to the Appellant to meet the need; and,
- Failure to meet the need would not result in imminent danger to the Appellant's physical health.

### **Part D – Relevant Legislation**

*Employment and Assistance Persons with Disabilities Act Section 5*

*Employment and Assistance Persons with Disabilities Regulation Section 57*

**The relevant legislation is provided in Appendix A**

**Part E – Summary of Facts**

The hearing was held via teleconference on April 2, 2024. In attendance, along with the panel members, were the appellant and a ministry representative.

**Relevant Evidence Before the Minister at Reconsideration**

- The appellant is a sole recipient of disability assistance, receiving \$1580.50 per month for disability assistance and supplements. This amount includes \$983.50 for a support allowance, \$500.00 for a shelter allowance, and \$52.00 for a transportation supplement.
- On December 1, 2022, the appellant submitted a Shelter Information form for her residence which indicated that utilities were included in the rent. As such, a ministry worker canceled her direct payments to BC Hydro.
- On December 5, 2022, a ministry worker emailed the appellant's Third-Party Administrator, and advised "direct payment to Hydro has been cancelled as the rent form say her utilities are included in her rent."
- On December 17, 2022, a ministry worker emailed her Third-Party Administrator, and advised "Hydro was previously cancelled, and a new request will need to be made to reimplement this." The ministry did not receive a request to re-add direct payments to BC Hydro after this date.
- On January 24, 2024, the appellant's Third-Party Administrator, put in a request for a crisis supplement to pay the BC Hydro bill, stating that the appellant's electricity had been disconnected.
- On January 25, 2024, a ministry worker contacted BC hydro to confirm the status of the appellant's account. The following information was provided by BC Hydro, which the worker then emailed to the Third-Party Administrator.
  - The payment arrangement to BC Hydro from the appellant's disability assistance ended November 2022.
  - BC Hydro Equal Payment Plan (EPP) was automatically cancelled because of non-payment for over a year.
  - The appellant's BC Hydro account received a payment on January 25, 2024, which brought the account back into good standing and reconnected services.

- The appellant's EPP with BC Hydro was reinstated at an amount of \$27.00 per month. This amount was set up to be paid to BC Hydro from the appellant's monthly disability assistance, effective February 14, 2024.
- On January 30, 2024, the appellant's request for a crisis supplement to pay B.C. Hydro was denied because a ministry worker confirmed with BC Hydro that her electricity had been reconnected and that the account was in good standing as of January 25, 2024. The appellant was not considered to have a danger to her health or safety.
- On February 1, 2024, the appellant requested a crisis supplement for reimbursement of the funds she paid to BC Hydro. She stated: "The ministry normally pays the utilities but did not for the last few months" and "service was disconnected, so I had to pay for the service to be reconnected and also pay the \$139 that was not paid by the ministry."
- On February 22, 2024, the ministry denied the appellant's request for the following reasons:
  - She requested reimbursement for a reconnection fee and past bill that have been paid. She has not demonstrated an unexpected circumstance and has accessed other resources to meet her need. It is also her responsibility to monitor her consumption and bills to ensure that all bills have been paid.
  - She has not demonstrated that there is a danger to health and safety currently. She is not at risk of disconnection as the bill has been paid.
- On February 26, 2024, the appellant submitted a request for reconsideration. Her request states "hydro disconnection without notice. There was an arrangement in place to client and client was not notified when cessation of arrangement for some reason. Undue expense and inconvenience."

**Additional Information Provided after Reconsideration**

The appellant provided her reasons for the appeal in the Notice of Appeal:

"Ministry had been paying the BC Hydro bill but for some reason stopped before Christmas during and then after. It normally just happens automatic. Someone did not see the bill. Not sure what happened. They have since resumed paying it. However, I had to pay those bills out of pocket for those three months. I don't have enough money as it is."

The appellant provided an additional submission dated March 27, 2024, which contains photocopies of the BC Hydro billings and a copy of an email from the appellant to the ministry. The BC Hydro invoice for the residence in city 2 is dated January 8, 2024, and shows arrears of \$96.52 and a current portion of \$43.00 for a total of \$139.52. This appears to represent three months of BC Hydro payments, although the invoice covers the time period for which the crisis supplement is sought for hydro, in city 1.

It was not apparent on this hydro invoice evidence whether the appellant received hydro bills during the relevant period of November 2022 to December 2023, or what period was covered by the arrears of \$96.52.

Section 22(4) of the Act says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under the Act Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

The panel did not consider any of the information presented by the parties at the hearing to be new evidence.

At the hearing the appellant explained that:

- The hydro bill was paid by her sister.
- The appellant has been blamed for the situation, whereas it is the failure of the Third-Party Administrator and the ministry; proper protocols were not followed to ensure administrative errors such as this were not dealt with on a timely basis.
- There was a lack of communication between the Third-Party Administrator and the ministry to rectify the problem of unpaid utilities.
- The appellant explained that she can not come up with the amount owing to her sister and is challenged to even buy groceries.
- The appellant was questioned by the panel why the address on the Shelter Information Form in the appeal package was in city 1 while the Service Address shown on the BC Hydro account in city 2. When asked whether she has moved out from the city 1 address, the appellant said that she has not. However, the panel notes that the address provided by the appellant in the request for reconsideration and the Notice of Appeal is an address in city 2.

At the hearing, the ministry relied on its reconsideration decision and stressed that:

- the Shelter Information form in the appeal package indicated that utilities were included in the appellant's rent. Relying on this information, a ministry worker canceled the direct payments to BC Hydro.
- On December 17, 2022, a ministry worker advised the Third-Party Administrator that Hydro was previously cancelled, and a new request would need to be made to reimplement this.
- On January 24, 2024, the Third-Party Administrator put in a request for a crisis supplement to pay the BC Hydro bill, stating that electricity had been disconnected.
- On January 25, 2024, a ministry worker contacted BC Hydro to confirm the status of the account.
- The ministry then informed the Third-Party Administrator that on January 25, 2024, the BC Hydro account was brought into good standing and services were reconnected.
- BC Hydro was reinstated at an amount of \$27.00 per month, paid from the appellant's monthly disability assistance, effective February 14, 2024.
- It is the appellant's responsibility to monitor her bills to ensure that all bills have been paid.
- On January 30, 2024, the appellant's request for a crisis supplement to pay B.C. Hydro was denied because the electricity had been reconnected, and that the account was in good standing as of January 25, 2024. Therefore, the appellant was not considered to have a danger to her health or safety.
- On February 1, 2024, the appellant requested a crisis supplement for reimbursement of the funds paid to BC Hydro.
- On February 22, 2024, the ministry denied the request because the appellant had not demonstrated an unexpected circumstance, and she has accessed other resources to meet the need. Again, it is also the appellant's responsibility to monitor her bills to ensure that all bills have been paid.
- Finally, the appellant has not demonstrated there is a danger to health and safety currently. She is not at risk of disconnection as her bill has been paid.

**Part F – Reasons for Panel Decision**

The issue under appeal is whether the reconsideration decision, which found that the appellant was not eligible for a crisis supplement for a reimbursement of funds she paid to BC Hydro was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

- Was it reasonable for the ministry to determine that the crisis supplement is not needed to meet an unexpected expense?
- Was it reasonable for the ministry to determine that there were other resources to meet the need?
- Was it reasonable for the ministry to determine that failure to meet the need would not result in imminent danger to the appellant's physical health?

**The Appellant's Position**

The appellant's position is:

- The ministry had been paying the BC Hydro bill, but for some reason it stopped payment which normally was just paid automatically.
- No one apparently saw the bill, and the appellant is not sure what happened.
- The appellant has been blamed for the situation, but it is the failure of the Third-Party Administrator and the ministry since proper protocols were not followed to solve administrative errors on a timely basis.
- However, the ministry has since resumed paying it.
- Since the appellant had to pay those bills, she is out of pocket for three months of payments, and she does not have enough money to pay them.

**The Ministry's Position**

The ministry's position is:

- The appellant would have been aware that direct payments to BC Hydro stopped, and as a result, the ministry is not satisfied that she had an unexpected need to pay BC Hydro, or that she incurred an unexpected expense.
- The appellant indicated that her sister paid the BC Hydro bill on her behalf, but she did not indicate that she was required to repay these funds. As such, the ministry is unable to establish that the appellant did not have resources available to her.
- The appellant's BC Hydro account is in good standing as of January 25, 2024, and she is not at risk of disconnection. As such, the ministry is not satisfied that there is an imminent danger to her physical health.

**ANALYSIS**

## Panel Decision

### Unexpected Expense

The Regulation Section 57(1)(a) says that the ministry can provide a crisis supplement to a client who is eligible for disability assistance if the client requires the supplement to meet an unexpected expense.

“Unexpected” is not defined in the Act or the Regulation, but the Merriam-Webster dictionary defines “unexpected” to mean unforeseen or not anticipated. The panel notes that the Third-Party Administrator was advised on December 5th, 2022, that direct payments to BC Hydro were stopped as the appellant had submitted a Shelter Information form indicating that electrical utilities were included in the rent. The Third-Party Administrator is an agent of the appellant (principal), and the information in the hands of an agent is, under most circumstances, imputed to the principal. As such, the panel finds that the appellant would also have been aware that direct payments for hydro utilities ceased, once her agent was informed that direct payments to BC Hydro were stopped. Further, the appellant would know of her obligation to pay electrical utilities if they were not included in the rent. At the hearing, the appellant alleged that the information contained in the Shelter Information is incorrect. However, the panel notes that the Shelter Information (which indicated that utilities were included in the rent) was signed by the landlord of the appellant. There is no evidence that the appellant has ever notified the ministry that there was an error in the Shelter Information. The panel takes the view that the ministry is entitled to rely on the information contained in the Shelter Information as submitted by the appellant.

The panel also notes that the hydro bill submitted by the appellant (which shows an overdue amount of \$96.52 and a current charge of \$43.00, totalling \$139.52) actually relates to an address different from the address shown on the Shelter Information. The appellant has not provided any hydro bill showing that there was an overdue amount relating to the address shown on the Shelter Information. This may explain why the appellant says the bill was not paid for three months, but the ministry's evidence is that its payment arrangement with BC Hydro ended in late 2022. There is no evidence of what happened in the interim from Nov 2022 to Jan 2024. The amount of arrears appears to cover three months at \$43 per month. The panel finds there are unexplained inconsistencies in the appellant's evidence.

Therefore, the panel finds that the ministry reasonably determined that the expense was not unexpected. The panel finds that the appellant would have been aware that once

direct payments to BC Hydro ceased, she would be expected to pay BC Hydro from other sources.

### **No Resources Available**

The Regulation Section 57(1)(a) says that the ministry may provide a crisis supplement to a client who is unable to meet the expense because there are no resources available to the family unit.

The panel notes that the appellant indicated that the BC Hydro account's overdue balance was paid off through a payment made by her sister. She also stated that she could not afford to pay this amount, and she could barely afford her groceries. The panel notes that the appellant was able to access other resources to meet her need, and the appellant did not indicate whether the amount paid by the sister to re-instate the BC Hydro account was an amount that she had to re-pay. Further, the appellant stated in her Notice of Appeal that she herself paid "out of pocket" for the three months of hydro. The panel is therefore unable to establish on the available evidence that the appellant's resources were insufficient. The panel also notes that the hydro bill submitted by the appellant (which relates to the address different from the address shown on the Shelter Information) is issued to both the appellant and another person. The panel finds that this other person is a potential resource of resources available to pay for the BC Hydro re-instatement.

Therefore, based on the available evidence, the panel finds that the ministry reasonably determined that the appellant had the resources available to bring the BC Hydro account current and to restore her electricity service.

### **Imminent Danger to Physical Health**

The Regulation Section 57(1)(b)(i) says that the ministry may provide a crisis supplement to a client if failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit.

In the reconsideration decision, the ministry determined that the appellant's electricity had been reconnected and that her account was in good standing as of January 25, 2024. She was therefore not at risk of disconnection as her bill had been paid. The panel finds that the hydro expense has been met, the bill was paid, and power restored. Accordingly, the appellant has not demonstrated that she would face imminent danger to her physical health without reimbursement of her electricity utility costs.



Therefore, the panel finds that the ministry reasonably determined that it had not been demonstrated that the appellant's physical health was in imminent danger if she was unable to obtain reimbursement of funds paid to the BC Hydro.

### **Conclusion**

Having reviewed and considered all the evidence and relevant legislation, the panel finds that the reconsideration decision, which determined that the appellant was not eligible for a crisis supplement, was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant, and therefore confirms the decision. The appellant's appeal, therefore, is not successful.

## Schedule of Legislation

### ***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

...

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

....

(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.

APPEAL NUMBER 2024-0092

**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

Bill Farr

Signature of Chair

Date (Year/Month/Day)

2024/04/23

Print Name

Mimi Chang

Signature of Member

Date (Year/Month/Day)

2024/04/23

Print Name

Julie Iuvaneigh

Signature of Member

Date (Year/Month/Day)

2024/04/23