

PART C – Decision under Appeal

The decision under appeal is the Ministry's reconsideration decision, dated June 19, 2012, which held that the Appellant was not eligible for a moving supplement because she did not meet the statutory requirements of Section 55 (2) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). Further the Ministry determined that the appellant did not demonstrate that there are no resources available to the family unit to cover the cost, as required by Section 55(3) of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55(2), 55(3)

PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of the request for reconsideration dated June 12, 2012 in which the Appellant states " we receive \$697.20 after rent, hydro, phone also outstanding bills. Reason for moving to (a larger community) is to be closer to larger hospital, also for specialists. Also less expensive and less mileage. (My husband) and I can't very well take the long travel. (He) has cancer (and) I have uncontrollable bladder."

In the Notice of Appeal dated June 27, 2012 the Appellant states, "our funds, \$697.20, will be exhausted by the time or before we get to our destination. We would like to pay our outstanding bills (and) we will not have \$170.00 to pay for our friend's moving truck".

At the hearing the Appellant stated that she is 236 Kilometers away from the larger community where they must go for medical specialists and a larger hospital. She said that a friend of a friend has agreed to use his truck to move their belongings to that community and the estimated cost will be \$170.00 for gas and other expenses. She said that their own doctor is only in their community for two or three weeks at a time and they need to find a new doctor because her husband has cancer and she has internal bleeding and bladder problems. The appellant said that they must book with an agency to arrange for transportation when they need to go to the larger community for medical appointments and that agency needs at least two weeks notice. She said it is hard on them both when they must go to see a specialist in that larger community as it takes 2 ½ hours to travel to that community and when they are away from home all day they have problem with their medications. She said that last month she was taken by ambulance to an out of town hospital and then when she was discharged she had a great deal of difficulty arranging for transportation home. The Appellant said that they have had to travel to the larger community almost every month for medical reasons and they wish to move to that community to be closer to specialists and a larger hospital.

The Ministry reviewed the Reconsideration Decision and acknowledged that it is very inconvenient for the Appellant and her husband to travel 2 ½ hours to attend a medical appointment. The Ministry also noted that the Appellant does not travel well and acknowledged that the traveling interferes with taking medications.

The panel makes the following findings of fact: The Appellant is in receipt of disability assistance under the EAPWDA and is entitled to apply for a moving supplement under Section 5 of the Act. The Appellant has applied for a moving supplement in order to relocate to a larger community – 236 kilometers from her present community – in order to be closer to medical specialists and a larger hospital.

PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's decision was reasonably supported by the evidence and whether the Ministry reasonably determined that the Appellant was not eligible for a moving supplement because she did not meet the statutory requirements of Section 55 (2) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) or demonstrate that there are no resources available to the family unit to cover the cost, as required by Section 55(3) of the EAPWDR.

The relevant legislation is section 5 of the *Employment and Assistance for Persons with Disabilities Act* (EAPWDA):

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.

and Section 55 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) as follows:

Supplements for moving, transportation and living costs

55 (1) In this section:

"living cost" means the cost of accommodation and meals;

"moving cost" means the cost of moving a family unit and its personal effects from one place to another;

"transportation cost" means the cost of travelling from one place to another.

(2) Subject to subsections (3) and (4), the minister may provide a supplement to or for a family unit that is eligible for disability assistance or hardship assistance to assist with one or more of the following:

(a) moving costs required to move anywhere in Canada, if a recipient in the family unit is not working but has arranged confirmed employment that would significantly promote the financial independence of the family unit and the recipient is required to move to begin that employment;

(b) moving costs required to move to another province or country, if the family unit is required to move to improve its living circumstances;

(c) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area because the family unit's rented residential accommodation is being sold or demolished and a notice to vacate has been given, or has been condemned:

- (d) moving costs required to move within a municipality or unincorporated area or to an adjacent municipality or unincorporated area if the family unit's shelter costs would be significantly reduced as a result of the move;
- (e) moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit;
- (f) transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the *Child, Family and Community Service Act*, if a recipient is given notice of the hearing and is a party to the proceeding;
- (g) transportation costs, living costs, child care costs and fees resulting from
 - (i) the required attendance of a recipient in the family unit at a hearing, or
 - (ii) other requirements a recipient in the family unit must fulfil in connection with the exercise of a maintenance right assigned to the minister under section 17 [*categories that must assign maintenance rights*].

(3) A family unit is eligible for a supplement under this section only if

- (a) there are no resources available to the family unit to cover the costs for which the supplement may be provided, and
- (b) a recipient in the family unit receives the minister's approval before incurring those costs.

(4) A supplement may be provided under this section only to assist with

- (a) the cost of the least expensive appropriate mode of moving or transportation, and
- (b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate living costs.

[am. B.C. Reg. 275/2004, s. 2.]

The Ministry determined that the Appellant did not meet the criteria stipulated in Sections 55 (2) and (3) of the EAPWDR.

The Appellant said that her reason for moving to a larger community - located 236 kilometers away from her present community - is to be closer to medical specialists and a larger hospital. She said

that she travels to that larger community once a month because of her medical needs; that she needs to find a doctor who is more available; that traveling to the larger community is often difficult to arrange; and that the five-hour trip is hard on her and interferes with her medications.

The Reconsideration Decision states "Although the minister notes that 236 kilometers in travel between the two communities is arduous for the appellant and her spouse the information provided does not establish that the request for a moving supplement meets the legislation in Section 55 of the Persons with Disabilities Regulation".

At the hearing the Ministry said that the circumstances of the Appellant just do not fit the legislated requirements although she acknowledged that it is very inconvenient for the Appellant when she must travel 2 ½ hours to attend a medical appointment.

The criteria stipulated in Section 55(2) (a), (f) and (g) of the EAPWDR are not at issue in this appeal as there was no reference to moving for employment, or for a hearing concerning a child protection or maintenance right.

The Ministry determined that although the Appellant wishes to move to another community in BC to improve her living conditions she is not moving to another country or province as stipulated in Section 55(2) (b) of the EAPWDR.

The Ministry also found that information has not been provided that the criteria in Section 55(2) (c) and (d) can be considered, as the Appellant is not moving within or to an adjacent community because her accommodation is being sold, demolished or condemned or because her shelter costs would be significantly reduced. The Ministry noted that Section 55(2) (c) or (d) also do not apply to the Appellant's circumstances because she intends to relocate to community that can not be considered an "adjacent" community given that there is a distance of 236 kilometers with "several communities between the two districts".

The panel finds that the Ministry reasonably determined that the Appellant's reasons for moving do not meet the criteria in Section 55 2 (b), (c) and (d) of the EAPWDR in that the Appellant is not moving to another country or province; is not moving because her accommodation is being sold, demolished or condemned; and there is no information provided that the Appellant's shelter costs would be significantly reduced. The panel finds that the Ministry also reasonably determined that a community that is located 236 kilometres away from the current home cannot be considered an "adjacent" community for the purposes of Section 55(2) (c) and (d) of the EAPWDR.

The position of the Ministry is that the Appellant's reasons for moving fall into the category in Section 55 (2) (e) which stipulates that a moving supplement can be provided for moving costs required to move to another area in British Columbia to avoid an imminent threat to the physical safety of any person in the family unit.

The Appellant gave evidence that she wishes to move to a larger community in order to be closer to medical specialists and a larger hospital. She said that the traveling too hard on her, that it is sometimes difficult to arrange transportation and that the traveling interferes with her medication. She also said that she must find a doctor who is more available.

The Reconsideration decision states "Although the Minister notes that 236 kilometres in travel between the two communities is arduous for you and your spouse due to your medical complications ... (and) The Minister acknowledges that you believe that your current living situation would be greatly improved by moving to ... where your medical support systems are located. However, information has not been provided to confirm that you must move to ... to avoid imminent threat to your physical safety". At the hearing the Ministry acknowledged the Appellant's statement that she does not travel well and that the 5 hours of travel interferes with her medication.

The panel finds that the information submitted does not establish that there is an imminent threat to the physical safety of any person in the family unit (the Appellant and her spouse). The panel notes the evidence that it would be more convenient for the Appellant to be located closer to medical specialists and a larger hospital. However the criteria set out in Section 55 do not allow for consideration of convenience and given that there is no evidence that there is imminent threat to the physical safety of the Appellant and her spouse – if they do not relocate to the larger community - the panel is satisfied that the Ministry reasonably determined that the Appellant does not meet the criteria for a moving supplement as stipulated in Section 55(2)(e) of the EAPWDR.

With respect to the further criteria set out in Section 55 (3) (a) - that a moving supplement may only be provided when there are no resources available to the family unit to cover the costs for which the supplement may be provided – the Reconsideration Decision states that the Appellant has not provided any reference to accessing other resources. At the hearing the Ministry referred to the requirement that the Appellant must show that there are no resources in the family unit to meet the expense and suggested that the Appellant consider using the funds she is expecting on Wednesday to cover the costs of moving.

The Appellant said that a friend of a friend, who has a truck, is willing to help them move and that it will cost \$170.00 for gas and other expenses. She said that she only has \$697.20 each month after paying her monthly shelter costs and her funds will be exhausted by the time she gets to her destination.

The panel finds that the information presented does not establish that there are no resources available to the family unit to meet the expense and further finds that the Ministry reasonably determined that the Appellant does not meet the criteria for a moving supplement as set out in Section 55 (3)(a) of the Regulation.

The panel therefore finds that the Ministry's decision to deny the Appellant's request for a moving supplement was reasonably supported by the evidence and was a reasonable application of the legislation.

The panel confirms the Ministry's decision.