

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the "Ministry") July 18, 2012 reconsideration decision in which it determined that the Appellant, a Person With Disabilities ("PWD") designation, was not eligible for a supplement for moving costs under section 55 of the Employment and Assistance for Persons with Disabilities Regulations.

## 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.

## PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from its records that the Appellant receives disability assistance as a single person and a June 26, 2012 request from the Appellant for a supplement to pay for a move from one city to another one to be closer to her daughter. The Appellant pays \$306 rent for subsidized housing.
2. Appellant's July 12, 2012 Request for Reconsideration together with:
  - Letter from the Appellant dated July 9, 2012.
  - Letter from the Appellant's Psychiatrist dated July 10, 2012.
  - Letter from a counselor with a Mental Health Program dated July 5, 2012.
  - Letter from the Appellant's doctor dated July 11, 2012.

In her July 9, 2012 letter, the Appellant wrote that in September 1997, after being approved for disability benefits, she bought her own home about 5 miles outside of a city where she lived for 5 years. During that time, she stated that her health became progressively worse. She was no longer able to shovel snow or chop wood. She also could not afford the up-keep of her home. The Appellant stated that, at that time, her daughter was able to afford to come and see her once. She also travelled to visit her daughter in another area. The Appellant wrote that the trip was long and costly. She could no longer take the trip because of her health. The Appellant decided to move closer to her daughter and live in a low income apartment in another community. Living in the city was not the place for her. The Appellant explained that once again the trip for her daughter was long and costly. Her daughter came to visit her once and she went to visit her daughter once. The Appellant stated that she travelled by bus for her second grandson's birth. She lived in this second community for nine and a half years.

The Appellant also wrote that she moved to her current residence one and a half years ago. The city where she lives provided her with very good medical services and a hospital. The Appellant stated that she has not been able to go to where her daughter lives and her daughter has not been able to afford the long, costly trip to her. Her grandchildren are now 9 and 8 years of age. She has only seen them twice, once when the second child was born and once a year later. The Appellant explained that she and her daughter are very close friends, and her daughter would benefit from her living closer to help with the children. The Appellant stated that her daughter has asked her to move closer so that her daughter can help her and she could help her daughter, and so she would not be so alone. The Appellant wrote that she has been very much alone for the past sixteen years. It has affected her mental health to the point that she ended up in hospital in February for a week. She could not sleep and felt that she was having a heart attack. The Appellant stated that she is still seeing the psychiatrist as an outpatient is being counseled by a Mental Health counselor and continues to work with her family doctor for her physical health. The Appellant wrote that she believes it would help to improve her physical and mental health to move.

In the July 10, 2012 letter, the psychiatrist wrote that she has been the Appellant's psychiatrist since January 2012. She met the Appellant on numerous occasions in her outpatient clinic at the local hospital. The psychiatrist stated that she can confirm that the Appellant moving to the new area, in subsidized housing, is very likely to significantly contribute to an improvement to the Appellant's mental health, as she will be nearer to her daughter.

The counselor, in her July 5, 2012 letter, stated that the Appellant has been accessing the local Mental Health Programs since February 15, 2012 and that she has been the Appellant's mental health clinician since May 23, 2012. The counselor wrote that in her professional opinion, the Appellant would experience an improvement in her living circumstances and in her mental health if she could move into subsidized housing in the new area so that she could be closer to her daughter.

The Appellant's doctor, in the July 11, 2012 letter, wrote that he was writing the letter in support of the Appellant's application for subsidized housing in the new community. Living in that community would mean increased and regular contact with the Appellant's daughter and grandchildren who live there. The increase in psychosocial and other practical support from the Appellant's family would be of major benefit to both her mental and physical health. The doctor stated that the Appellant has a complicated medical history and any additional family support available is required now, and it is likely that even more will be needed in the future.

To support her appeal of the Ministry's reconsideration decision the Appellant submitted a letter dated August 10, 2012. In that letter, the Appellant stated that she has applied for a transfer with the province's housing agency and received approval on July 17, 2012. The Appellant wrote that she believes that living near her daughter would improve her living circumstances. Moving to another country, province, or an adjacent municipality would not improve her living circumstances. The Appellant wrote that she feels that she does not have the resources to cover this move; a moving company costs \$2,500. She could not get a print out of the expenses for a U-Haul – it would cost \$792. The Appellant also explained that her family would have to go to her and back, which would cost them a couple more hundred dollars. Plus she would have to pay someone to help them load the moving truck.

For this appeal the Appellant also submitted the following letters and statements:

- Letter dated July 17, 2012 from the housing services indicating that the Appellant's request to transfer to another housing unit was approved. The Appellant was advised that the current number of applicants for housing and tenants requesting transfer greatly exceeds the number of available units. When a unit becomes available, it is offered to the applicant or tenant who has the highest need. The letter also advised the Appellant that her transfer request is valid for one year.
- Letter dated May 2, 2012 from a doctor advising that the Appellant has been a patient for over a year. Since her move to her current address the Appellant reported several instances where she felt verbally abused by the management of her housing unit. The Appellant went to see the doctor after these encounters and was visibly upset. The Appellant stated that her encounters with management of her housing unit affect her physical and mental well-being.
- Letter dated May 9, 2012 from the Appellant's psychiatrist confirming that the Appellant mentioned on several occasions that she has had unpleasant experiences when interacting with the management in her current housing. This has affected her mental state and had made her more fragile, depressed and anxious. The psychiatrist stated that she could not comment on how those interactions came about.
- Statement dated May 13, 2012 in which the Appellant indicated she moved to her current home 1 year and 7 months ago. The Appellant described several conflicts with the manager and the landlord regarding the cleanliness of the stove, bathroom and windows, the lack of hot water, and repairs to the toilet, taps and doors. The Appellant wrote that she also had

electrical problems. The Appellant stated that the landlord yelled at her several times when she asked to have these items addressed and the managers accused her, wrongly, of smoking cannabis. The Appellant stated that she only wants out; she has been treated unfairly and cannot afford to have the management ruin her good standing with the housing agency.

- Letter dated September 5, 2012 addressed to this tribunal. The Appellant wrote that the day before her friend drove 70 miles to tell her he would not be coming to see her anymore because he had a very serious heart attack, and he cannot handle the stress of the city and the drive to her. The Appellant wrote that the landlord gave this friend the wrong information about which apartment was hers and so her friend had to come back twice. The Appellant stated, "I ask you once again to help me to move from this place. My friend will not be back due to his health."

The Ministry submitted no comments about the admissibility of these documents and had no additional information to submit regarding the September 5, 2012 letter.

The Panel finds that the information in the letters and statements submitted by the Appellant for this appeal is related to the health and family reasons for her desire to move and is related to information that the Ministry had at the time of reconsideration. Therefore, the Panel admits these as being in support of the evidence that the Ministry had for its reconsideration decision pursuant to section 22(4) of the Employment and Assistance Act.

The Ministry stated that its submission in this matter will be the reconsideration summary.

The Panel makes the following findings of fact which are not in dispute:

1. The Appellant is a PWD receiving disability assistance as a single person.
2. The Appellant wants to move to another municipality within the province.
3. The Appellant's reason for moving is to be closer to her daughter and grandchildren, to improve her health and to improve her living circumstances.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a supplement for moving costs under section 55 of the EAPWDR.

The following section of the EAPWDA applies to this appeal:

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.

The following sections of the EAPWDR apply to this appeal:

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 fulfill

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.

In its reconsideration decision, the Ministry stated that it reviewed all information relevant to the Appellant's request, including the letters from the health professionals. The Ministry also considered the Appellant's submissions about wanting to live near her daughter for a closer family relationship, about her health conditions, and about how moving closer to her daughter would be beneficial for the Appellant's mental and physical health. The Ministry specifically considered the eligibility criteria for a moving supplement provided for in Section 55 of the EAPWDR and it determined that the Appellant did not demonstrate that she required the supplement:

1. To move anywhere in Canada for confirmed employment (section 55(2)(a)).
2. To move to another province or country to improve her living conditions (section 55(2)(b)). The Ministry acknowledged the Appellant's statement that moving closer to her daughter and grandchildren would improve her living circumstances. It noted that letters from the health care professionals supported this statement. However, the Ministry found that the Appellant requested assistance for a move between two communities within the province, not to another province or country as required by this section.
3. To move within or to an adjacent municipality because her current accommodations are being sold demolished or condemned (section 55(2)(c)).
4. To move within or to an adjacent municipality because her shelter costs would be significantly reduced (section 55(2)(d)). The Ministry noted that the Appellant pays \$306 rent in subsidized housing but she provided no information about how the move would affect her shelter costs.
5. To move to another area in the province to avoid an imminent threat to her physical health (section 55(2)(e)). The Ministry acknowledged that there is reason to believe that the Appellant's move would benefit her physical health; however, the Appellant did not provide any information that establishes the existence of a specific imminent physical health risk.

The Ministry also found that the Appellant did not provide any information that establishes that she does not have the resources to cover the cost of the move (section 55(3)). Therefore, the Ministry determined that based on all the information and the applicable requirements in section 55, the Appellant was not eligible for a moving cost supplement to move her personal effects.

The Appellant's position is that she wants to move within the province to a municipality closer to her daughter to improve her family relationships, to improve her health and to improve her living conditions. The Appellant also submitted that such a move would be expensive for her and she provided information about the expected costs. She stated that it also would be expensive for her daughter to help with the move and so she needs the supplement to pay for the move.

To be eligible for a moving supplement, the Appellant had to provide information to demonstrate that she met at least one of the requirements for a supplement as provided for in section 55 of the EAPWDR. The Panel finds that the Ministry reviewed all of the information from the Appellant and then considered the Appellant's request under each of the applicable eligibility requirements in section 55 of the EAPWDR. Based on the information provided by the Appellant, the Panel finds that the Ministry reasonably determined that the Appellant did not qualify for a supplement. She wants to move within the province to improve her health and living situation, not to another province or country. There is no evidence that she is facing an imminent threat to her physical health. The Appellant also did not provide information about her financial situation or lack of resources to pay for the move. Therefore, the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments. The Panel confirms that decision.