

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of September 6, 2012, which denied the appellant's request for a supplement for moving fees under Section 5 of the *Employment and Assistance for Persons with Disabilities Act (EAPWDA)* and Section 55 of the *Employment and Assistance for Persons With Disabilities Regulation (EAPWDR)*. The ministry concluded that the appellant met the criteria of Section 55(2)(c) of EAPWDR as her move was as a result of her accommodation being sold. However, the ministry determined that the appellant did not meet the criteria sets out in Section 55(3) as she had resources available to cover the cost of moving and did not receive the minister's approval before incurring these costs.

### 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

The information before the ministry at the time of reconsideration included the following:

- A copy of the U-Haul equipment contract receipt dated July 31, 2012 with a return date August 4, 2012 which stated that the appellant paid \$200 deposit and that the estimated total charge is \$191.42.
- A copy of the U-Haul equipment contract receipt received by the ministry on August 30, 2012 which states that additional \$59.79 was paid to cover the total cost of the rental equipment.
- Request for Reconsideration form signed by the appellant on August 22, 2012;

Information subsequently put before the appeal panel included the following:

- The Notice of Appeal dated September 14, 2012.

In the written submission included with her Request for Reconsideration, the appellant requested to be reimbursed for the equipment rental. The appellant stated that she is a cancer survivor on disability assistance. She had a brain tumor and that affects her vision and fine motor skills. She can only walk with a walker and suffers from loss of balance. The appellant stated that her rent for the last residence was \$600 a month plus \$60 for internet, heat and hydro. When she found out that her accommodation was being sold, she found a new place for \$600 including utilities which was cheaper than her last accommodation. The appellant stated that she needed assistance to move and was told by the ministry that she could be compensated for the moving costs up to \$300. The appellant said because she needed to move urgently, she decided to rent a U-Haul for \$236 plus cost of gas for \$40. The appellant said that she had no other option and has many health problems. The place she was living was sold and she was told that she could move to a cheaper place and her expenses would be paid. The appellant said that she didn't have time to wait for the ministry to make a decision. The ministry told her that this was an emergency and she would be reimbursed for the moving costs up to \$300. She submitted the receipt and doesn't have money to pay the expenses. She said that due to her medical condition, it took her a long time to move. She said that she does not have enough money to support herself and does not want to move again.

In her Notice of Appeal, the appellant stated that she called the ministry's staff twice about moving. She stated that she tried to get help because she was told that the moving costs would be covered as she was moving from \$600 plus monthly rent to \$450 in the new place. She said that she followed the instructions and the ministry's staff told her that as long as the rent was less and it was a forced situation she was covered. The appellant further stated that she did not have the money and had to borrow from a friend who now is harassing her and wants his money back.

The panel accepts the appellant's written submission as evidence, as it is a written testimony in support of information that was before the ministry at the time of reconsideration in accordance with Section. 22(4) of the *Employment and Assistance Act* (EAA).

At the hearing, the appellant stated that she phoned the ministry prior to her move and asked whether her moving costs would be covered by the ministry. She said that she again contacted the ministry with her daughter present and asked the same question. She was told because she was moving to a cheaper place and that her residence is being sold, the ministry would be covering the moving costs.

The appellant, in response to the ministry's question said that she found out about the residence being sold a month prior to the move and that she remembered a conversation with a ministry staff about her being required to provide two moving quotes in order for the ministry authorize the payment. The appellant said that she decided to rent the U-Haul because it was cheaper than hiring a moving company. The appellant said that she forwarded the quote from the U-Haul company to the ministry on July 31<sup>st</sup>; however, the appellant agreed with the ministry that she did not provide the second quote to the ministry.

The appellant further submitted that she did not have resources to pay for the move and had to borrow the money from a friend. The appellant stated that she had to work as a panhandler to be able to pay part of the money back. This evidence was confirmed by the appellant's daughter.

The ministry relies on the reconsideration decision and submitted that the appellant sent one moving quote on July 31, 2012 and was told that in order to authorize the moving cost; she was required to send another moving quote. The ministry further submitted that on August 17, 2012, the appellant provided another receipt from the same company and requested reimbursement for the total payment. The ministry submitted that the appellant paid the moving fees which indicate that she had resources available to her family to cover the costs for moving.

The appellant's daughter stated that her mother doesn't have a car and her car insurance was expired, as such she could not take her mother to the ministry's office. If she knew that her mother was required to provide the second quote, she would have been able to go to a moving company and ask them to fax the estimate to the ministry.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a supplement for moving fees was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant had resources available to her to cover the cost of moving and that she did not obtain approval of the ministry prior to incurring the cost.

### 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.

### EAPWDR:

#### 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.

The ministry's position, as stated in its reconsideration decision is that the appellant met one of the eligibility criteria for a moving supplement as she moved within same municipality due to her current accommodation being sold pursuant to Section 55(2)(c) EAPWDR. However, the ministry submitted that the appellant is not eligible for moving expenses as she failed to receive prior approval before incurring the costs of moving and that she had resources available to her to cover the cost of moving pursuant to section 55(3) of the EAPWDR.

The appellant's position is that she called the ministry prior to moving and was told that the ministry would be covering the cost of the move as her residence is being sold. The appellant agrees that the ministry requested that she provide two moving quotes; however, the appellant said that due to urgency, she decided to rent a U-Haul. The appellant further argues that she did not have money to pay for the move and had to borrow from her friend. The appellant states that in order to pay back the money she borrowed; she had to work as panhandler. The appellant states that she relied on the assurances by the ministry that her moving expenses would be paid by the ministry, she has suffered from anxiety and that the situation has resulted in "danger" to her physical and emotional health.

Section 55(1) includes a definition of the costs that are provided for in the section, namely "living cost", which is the cost of accommodation and meals, "moving cost" being the cost of moving a family unit and its personal effects from one place to another and "transportation cost" means the cost of travelling from one place to another.

Section 55 (2) (c) states that 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 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. The panel notes that there is no issue about the eligibility for the moving supplement under Section 55 (2) (c) of the EAPDWR as the appellant's relocation was as a result of her accommodation being sold.

Section 55 (3) (a) states that a family unit is eligible for a supplement under this section only if there are no resources available to the family unit to cover the costs for which the supplement is requested. The panel accepts the appellant's evidence, confirmed by her daughter that the appellant does not have resources available to her to cover the cost of moving and that she had to borrow the money from a friend to pay for the moving expenses. The panel finds that the ministry's decision that the appellant had the resources available to cover the cost of moving was not a reasonable decision.

Section 55(3)(b) of the EAPWDR states that a family unit is eligible for a supplement only if a recipient in the family unit receives the ministry's approval before incurring those costs.

The panel finds that the appellant was informed that she was required providing two moving quotes to the ministry in order to be approved and that she did not obtain the ministry's approval prior to the move.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision determining that the appellant completed her move prior to obtaining approval from the ministry was reasonably supported by the evidence and was a reasonable application of the legislation in the circumstances of the appellant, and therefore, confirms the ministry's decision.