

PART C – Decision under Appeal

The decision under appeal is the Ministry of Housing and Social Development (ministry) reconsideration decision of September 14th, 2012 to deny the appellant a moving supplement since the ministry determined the appellant was not eligible for a moving supplement under section 55 Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because the appellant had resources available to the family unit to cover the costs and the appellant failed to receive the minister's approval before incurring these costs as set out in section 55(3) 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

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Request for reconsideration dated September 4th, 2012.
- Service Request notes from the ministry log dated August 28th, 2012 regarding a visit by the appellant to the ministry office.

On August 28th, 2012 the appellant attended the ministry office and requested assistance to pay her friend for assisting as she had recently moved into a new residence that was wheelchair accessible. The appellant is wheelchair bound and was unable to pack or unpack any of her belongings. The appellant stated it took 4 trips to move her household effects and the friend wanted \$150 per load to cover his time and vehicle expenses.

The appellant did not attend teleconference hearing. The panel being satisfied the appellant was notified of the date, time and location of the teleconference hearing, proceeded with the hearing under section 86(b) Employment and Assistance Regulation (EAR).

The ministry made a submission which contained an overview of the facts and the ministry's arguments. The ministry did not submit any new evidence.

The panel noted that in the "background" of the reconsideration decision the information in the 1st bullet relative to the date when the appellant moved conflicts with the information contained in the ministry's Service Request notes contained in the Appeal Record. The date in the "background" states the appellant moved on September 1st, 2012 and the date in the ministry's notes indicated that the appellant attended the ministry office on August 28th, 2012 and advised the EAW that the move to the new residence had already taken place.

The panel finds that since the appellant did not attend the hearing and the ministry could not offer any further information on the matter that the panel accepts the information in ministry's Service Request record.

Finding of Fact:

1. That the appellant attended the ministry office on August 28th, 2012 to request a moving supplement.
2. That the appellant moved to her new residence prior to attending the ministry office.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant a moving supplement since the ministry determined the appellant was not eligible for a moving supplement under section 55 Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) because the appellant had resources available to the family unit to cover the costs and the appellant failed to receive the minister's approval before incurring these costs as set out in section 55(3) EAPWDR.

Legislation considered: 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*].

(B.C. Reg. 275/2004)

(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 (1) (f) or (g), the least expensive appropriate living costs.

(B.C. Reg. 275/2004)

The ministry argued the appellant did not meet the legislated criteria to be eligible for the supplement; by obtaining prior approval from the ministry to cover the moving costs before the costs were incurred; and by demonstrating that she did not have resources available to complete the move without financial assistance. The ministry stated that having a friend or relative provide assistance with moving the appellant's effects and

being compensated for their assistance is not an issue since the criteria for the approval is based on reasonable expense(s) and prior approval for the expense(s) from the ministry.

In the reconsideration decision the appellant argued that she was not aware that to have the ministry cover her moving expenses she needed prior approval. The appellant argued that she is not physically capable of moving herself as she is wheelchair bound and could not pack, unpack or move her effects without assistance. The appellant argued the move was necessary because her former residence was not wheelchair accessible and she just wanted her friends to be compensated for their time and assistance in packing and unpacking.

Section 55 EAPWDR provides the criteria for a moving supplement. Section 55(2) EAPWDR states specific circumstances that that are outlined in subsections 2(a) to (f) must be met to be considered for the supplement – location and reason move is necessary – and section 55(3)(a) and (b) EAPWDR states the criteria an applicant must meet to be eligible for a moving supplement – there are no resources available to the applicant and prior approval has been obtained before any costs are incurred.

In the reconsideration decision the panel notes the ministry determined the appellant met the requirement under section 55(2)(d) EAPWDR as the appellant's shelter costs would be significantly reduced.

The panel finds the evidence supports the ministry's position that the appellant moved to her new residence with the assistance of friend(s) and then after the move was completed went to the ministry to obtain a moving supplement to provide compensation to her friend(s) who had assisted with the move.

The panel finds the ministry was reasonable in finding the appellant had available resources (friends) to assist her with the move but did not obtain prior approval from the ministry that would incur moving expenses. The panel finds the ministry's decision to deny the appellant a moving supplement was reasonable.

The panel finds that the ministry's reconsideration decision is supported by the evidence and confirms the decision pursuant to section 24(1)(a) and 24(2)(a) of the Employment and Assistance Act.