

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (“the ministry”) dated 06 June 2013 that denied the appellant’s request under section 55 of the Employment and Assistance for Persons with Disabilities Regulation for a moving supplement to cover the costs of moving his personal items from City A to City B. The ministry held that the information provided did not establish that the appellant’s move was to a prescribed place for a prescribed purpose as set out in subsection (2) of section 55. Further, the ministry found that the appellant did not inform the ministry of his need to have his personal items moved from City A to City B and as a result did not receive the ministry’s approval before incurring his moving costs, as required under subsection (3)(b) of section 55, nor did he provide any information that would establish that there were no resources available to him to cover the costs of the move as required under subsection (3)(a) of section 55.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 55

PART E – Summary of Facts

The appellant did not appear at the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration comprised the following:

1. A One-Way contract for a towing vehicle truck rental to go from City A to City B, dated 19 April 2013, with the contract in the name of a person with the same family name as the appellant, with an out-of-country address, in the amount of \$329.28, paid by credit card.
2. 3 fuel receipts dated 19 and 20 April 2013, in the amounts of \$50.41, \$188.00 and \$39.42, all paid by credit card.
3. A fax transmittal memo dated 03 October 2012 from the appellant's psychiatrist in City A to a residential addiction treatment center in City B. The psychiatrist writes that he has been providing psychiatric care to the appellant since March 2008. His main diagnosis is Dissociative Identity Disorder with co-morbid anxiety (features of OCD/PTSD); he also struggles with polysubstance abuse, with recent relapse to alcohol. The psychiatrist states that the appellant will benefit from residential treatment, but that treatment locally will actually put him at risk of escalation of substance use. The psychiatrist recommends that the appellant enter treatment at the City B treatment facility. The psychiatrist attached his progress notes for the period 26 January 2012 to 03 October 2012, an authorization by the appellant dated 03 October 2012 for psychiatrist to release information to treatment center, an authorization by the appellant dated 03 October 2012 for treatment centre to release information to psychiatrist, plus a copy of a special authority request to the Ministry of Health dated 02 May 2012 for approval of a prescription drug not eligible for PharmaCare benefit coverage (not approved).
4. From the ministry's files:
 - The appellant is a recipient of disability assistance with one dependent child.
 - On 22 October 2012 the appellant was admitted into the residential addiction treatment center in City B.
 - On 30 October 2012 the ministry transferred the appellant's disability assistance file from City A to City B. He had indicated that he had personal belongings in storage.
 - On 18 April 2013 the appellant was discharged from the treatment center and submitted a residential tenancy agreement to the ministry confirming that he would be renting accommodation as of 20 April 2013 in City B.
 - On 15 May 2013 the appellant submitted his 19 April 2013 truck rental and fuel receipts and requested the ministry assist him with the costs of moving his personal items from City A to City B.
5. The appellant's request for reconsideration dated 27 May 2013. The appellant writes that his psychiatrist felt that he would better thrive out of City A, a place full of hurtful memories and countless triggers. So he came to City B. This has been true for him – he is even working towards employment, something he failed to do in City A. He did not know that going to City B would offer so much help/support with his Dissociative Identity Disorder, but even just knowing

there are more like him is help in itself. So he committed and moved his things out of storage after six months and moved. But he is sorely short right now and needs the ministry's help. If he had known, he would have come to the ministry first.

In his Notice of Appeal dated 11 June 2013, the appellant writes:

"1) I am only now aware that reimbursement is not your policy. The very nature of my disability causes breaks in my reality and moving put it to the edge. My parents used credit cards to move me but I cannot reimburse them without help.

"2) my health and welfare were absolutely at risk in City A. There was little support structure to combat the overwhelming history & subculture there. Please!! Reconsider?? I am genuinely in need..."

At the hearing, the ministry stood by its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request under section 55 of the Employment and Assistance for Persons with Disabilities Regulation for a moving supplement to cover the costs of moving his personal items from City A to City B. More specifically, the issue is whether the following ministry determinations were reasonably supported by the evidence or were a reasonable application of the legislation in the circumstances of the appellant:

- that the information provided did not establish that the appellant's move was to a prescribed place for a prescribed purpose as set out in subsection (2) of section 55.
- that the appellant did not inform the ministry of his need to have his personal items moved from City A to City B and as a result did not receive the ministry's approval before incurring his moving costs, as required under subsection (3)(b) of section 55,
- and that he did not provide any information that would establish that there were no resources available to him to cover the costs of the move, as required under subsection (3)(a) of section 55.

The relevant legislation is from the 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 panel considered each party's position regarding the reasonableness of the ministry's decision under the applicable criteria at issue in this appeal. All references to legislation relate to section 55 of the EAPWDR.

Subsection (2) scenarios

The position of the ministry is that the appellant's move was not for any of the reasons listed in subsection (2). Although the appellant stated that his psychiatrist felt it would be better for him to be out of City A, he has not submitted any evidence to support that he was required to move to avoid an imminent threat to his physical safety. At the hearing, the ministry explained that its policy for assessing "an imminent threat to the physical safety of any person in the family unit" (paragraph (e) of subsection (2)) was there was a "police documented threat" or "a targeted threat supported by documentation," with such a threat shown to be "imminent."

The appellant's position is that his health and welfare were absolutely at risk in City A, a place full of hurtful memories and countless triggers. There was little support or structure to combat the overwhelming history & subculture there.

The panel notes that of several moving scenarios set out in subsection (2), the only one that might apply in this appeal is that described in paragraph (e): "... 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 panel acknowledges that staying in City A might have exposed him to triggers and former associates in the drug subculture, putting his substance abuse recovery at risk, and that he might well benefit from the support and structure he has found moving to City B. However, the panel notes that the legislation is specific, expressed in terms of avoiding an imminent threat to physical safety. While his psychologist has written that "treatment locally will actually put him at risk for escalation of substance use," this statement was made in connection with the treatment phase and not in respect to where he might live post-treatment. Further, the concerns of the appellant are described more in terms of risks to his recovery, and thus to his health, and not with regard to an explicit threat to his physical safety. As the appellant has not provided any information documenting how there was an imminent threat to his physical safety by staying in City A, the panel finds that the ministry was reasonable in determining that the paragraph (e) criteria had not been met, and therefore that the appellant's request did not meet any of the scenarios set out in subsection (2).

Prior approval

The position of the ministry is that the appellant did not inform the ministry of his need to have his personal items moved from City A to City B and as a result he did not receive the ministry's approval for a moving supplement prior to incurring his moving costs.

The appellant's position is that the very nature of his disability causes breaks in his reality and moving put it to the edge, precluding him from advising the ministry.

The panel notes that the family unit is eligible for a moving supplement only if the criterion in subsection 3(b) is met. The panel considers this criterion to be a clear reflection of policy that the ministry cannot be expected to expend public funds to cover moving costs the purpose and amount of which it has not had the opportunity to apply, before the costs are incurred, its own due diligence. The legislation does not provide any discretion for unusual or unique circumstances. The panel therefore finds that the ministry reasonably determined that this criterion had not been met.

No resources available

The position of the ministry is that it is not satisfied that there were no resources available to the appellant to cover his costs, as required under subsection (3)(b), because he moved his personal items on 19 April 2013 and he did not request assistance with reimbursement of his moving costs until 15 May 2013. At the hearing, the ministry stated that it considers "resources available," in the context of a moving supplement and other supplements under the legislation, to include not only resources of the client making the request but also those resources of family members or even those available from charities.

The appellant's position is that his parents used credit cards to move him but he cannot reimburse them without help.

The panel notes that the costs incurred in renting the truck and related fuel expenses were paid for by the appellant's parents using their credit cards. While the appellant may feel some obligation to reimburse his parents, no information has been provided as to whether repayment is required by them, or that the amount could not be repaid over time. The panel finds the ministry reasonable in interpreting "resources available" to include family resources, and therefore finds that the ministry was reasonable in determining that this criterion had not been met.

Conclusion

Based on the foregoing, the panel finds that the ministry's decision to deny the appellant the requested moving supplement was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.