

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry's) reconsideration decision of September 11, 2013 in which the ministry denied the appellant's request for a moving allowance of \$1,032.99 to cover moving his belongings in April, 2013 into storage and the storage costs because the ministry determined:

- the appellant was ineligible for disability assistance in July, 2013 when he requested assistance with moving and storage costs, as his CPP income for July exceeded his assistance; since he was ineligible for income assistance in July he was ineligible for a moving supplement as specified under Section 5 of the Employment and Assistance for Persons with Disabilities Act and Section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation.
- the appellant did not receive prior approval for moving and storage of his belongings in April, 2013 as required under Section 55 3(b) of the Employment and Assistance for Persons with Disabilities Regulation.

### PART D – Relevant Legislation

Section 5 of the Employment and Assistance for Persons with Disabilities Act

Section 55 of the Employment and Assistance for Persons with Disabilities Regulation

## PART E – Summary of Facts

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

- A document in two sections:

One section, dated April 19, 2013 states: "... father phoned on client's behalf. No consent or ROI on file. He is requesting c/g moving – states client/son is suddenly put into a mental hospital, worker advised have the client submit consent of disclosure."

The other section of the document, dated June 6, 2013 is headed "History (query)," refers to the appellant by name, and gives the office number, the caseload number and describes the file status as "open." The document states: "... In April father called to say client in hospital. Now requesting moving funds from storage ... to new address (yet to be determined)."

The document is not specifically labeled as being from the ministry.

- A ministry Shelter Information form completed by the appellant and signed July 23, 2013. The start date is given as August 1, 2013 and the rent as \$850 plus \$20 for parking.
- A note dated July 25, 2013 from the appellant's Mental Health Case Manager (MHCM) explaining that he was evicted from the residence where he had resided for 18 years and admitted to hospital. He was discharged from the hospital on June 7, 2013 and went to stay with his mother while he looked for a new place to live. The property management company of the residence from which he was evicted would not give him a reference.
- An invoice dated August 14, 2013 to the appellant's mother, marked as paid in full, for \$1,032.99 from a moving and storage company for the moving on April 27, 2013 and one month of storage of the appellant's belongings.
- A letter dated August 27, 2013 from the appellant's mother. The letter is not addressed to a specific recipient but contains a ministry stamp dated August 29, 2013. The letter repeats the information provided in the July 25, 2013 note from the appellant's MHCM above, providing the further details as follows: the appellant was admitted to hospital because of a psychotic episode on April 12, 2013; while he was in the hospital his parents arranged to have his belongings moved into storage on April 27, 2013; the appellant's father had phoned the ministry and "was advised to do the move and have [the appellant] submit a claim after he was out of hospital and settled in a new place"; several moving companies were phoned and the company with the most reasonable charge was chosen; with his mother's help he found an apartment for August 1, 2013.
- Section 2, Decision to be Reconsidered, of the appellant's Request for Reconsideration of August 27, 2013 in which the ministry states that the appellant requested a moving supplement on July 25, 2013. The ministry also states that the appellant was not eligible to receive income assistance benefits for the month of July, 2013 and was therefore not a recipient of income assistance in July. The ministry states that the appellant is "... a single recipient of Disability Assistance. [The appellant] is currently eligible for [\$]531.42 minus [the appellant's] CPP income [for July] of [\$]568.94, leaving [the appellant] with no current eligibility in the month of July.

- The ministry's reconsideration decision of September 11, 2013 in which the ministry approved a moving supplement of \$320 to cover the appellant's move on August 1, 2013 from his parent's residence to his new apartment. As part of the decision, however, the ministry denied the appellant's request for \$1,032.99 to cover the April 27, 2013 move into storage and the cost of storage of his possessions after he had been evicted from his apartment.
- The appellant's Notice of Appeal dated September 25, 2013. In his Reasons for Appeal the appellant writes: "I was not capable of following the proper procedure for approval to move my belongings into storage because of my mental state which prevented me from comprehending the reality of my situation, which was dire. When I was admitted to hospital my financial position was not good. My parents loaned me the money for the moving invoice."

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's reconsideration decision to deny the appellant's request for a moving allowance of \$1,032.99 was a reasonable application of the legislation in the circumstances of the appellant or was reasonably supported by the evidence. The requested amount was to cover moving the appellant's belongings in April, 2013 into storage and the storage costs. The ministry determined that:

- the appellant was ineligible for disability assistance in July, 2013 when he requested assistance with moving and storage costs, as his CPP income for July exceeded his assistance; since he was ineligible for income assistance in July he was ineligible for a moving supplement as specified under Section 5 of the Employment and Assistance for Persons with Disabilities Act and Section 55(2) of the Employment and Assistance for Persons with Disabilities Regulation.
- the appellant did not receive prior approval for moving and storage of his belongings in April, 2013 as required under Section 55 3(b) of the Employment and Assistance for Persons with Disabilities Regulation.

Employment and Assistance for Persons with Disabilities Act

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.

Employment and Assistance for Persons with Disabilities Regulation

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.]

With respect to the appellant's eligibility for an allowance to pay for the move into storage of his belongings in April 2013, the ministry's position as stated in its Reconsideration Decision of September 11, 2013 is that "the appellant was ineligible for disability assistance for July . . ." The

ministry's position, as explained in the Decision to be Reconsidered section of the Request for Reconsideration is that "[The appellant] is currently eligible for [\$]531.42 minus [the appellant's] CPP income [for July] of [\$]568.94, leaving [the appellant] with no current eligibility in the month of July. The panel notes that section 5 of the Employment and Assistance for Persons with Disabilities Act reads: 'Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.'" Section 55 of the Employment and Assistance for Persons with Disabilities Regulation sets out the conditions under which "the minister may provide disability assistance or a supplement to or for a family that is eligible for it." The evidence of the ministry is that the appellant received \$568.94 in CPP income in July, 2013 and the appellant's eligibility for disability assistance that month was \$531.42 minus the CPP income of \$568.94.

The panel notes that the evidence shows the appellant's possessions were moved into storage on April 27, 2013 and that the appellant requested assistance with moving costs on July 25, 2013. The evidence also shows that the appellant was ineligible for moving assistance when he applied in July, 2013. The panel finds on the basis of the evidence of the document of April 19, that the appellant was a client of the ministry, and therefore on assistance in April, 2013. Though the 2-part document, one part dated April 19, 2013 and the other part dated June 24, 2013 is not specifically labeled as being from the ministry, the panel finds that the information in the document indicates that it was prepared by ministry workers. The panel finds there is no evidence that the appellant was ineligible for assistance and for a moving allowance in April, 2013 when the move occurred. Therefore the panel finds unreasonable the ministry's determination of the appellant's ineligibility for a moving allowance for a move in April, 2013 on the basis of his ineligible status in July, 2013.

With respect to Section 55 3(b) of the Employment and Assistance for Persons with Disabilities Regulation, the ministry's position is that the appellant did not meet the criteria because "there was no prior approval provided for the move of [the appellant's] belongings into storage." The appellant's position as stated in his Reasons for Appeal of September 25, 2013 is that: "I was not capable of following the proper procedure for approval to move my belongings into storage because of my mental state which prevented me from comprehending the reality of my situation." The appellant's mother states in her letter of August 27, 2013 that while the appellant was in the hospital and prior to moving the appellant's possessions into storage, the appellant's father was advised by the ministry "to do the move and have the appellant submit a claim after he was out of hospital and settled in a new place"; as well, several moving companies were phoned and the company with most reasonable charge was chosen.

The panel notes the evidence of the appellant that because of his mental state he was not capable of following the proper procedure for approval by the ministry. The panel notes the evidence in the letter from the appellant's mother that the appellant's father reported he had contacted the ministry before the move and was advised to arrange the move of the appellant's possessions into storage and submit a claim afterwards. The panel notes the evidence of the two-part document the panel finds to be from the ministry, one part dated April 19 2013 and the other part dated June 24, 2013. The part of the document dated April 19, 2013 states that the worker advised the client to submit a consent of disclosure form. The panel notes that the document does not state that the worker gave the client's father approval for the move. The panel notes that no consent of disclosure form is included with the appeal record. The panel notes the evidence of the ministry that "there was no prior approval" on file for the move of the appellant's belongings into storage, as required under to Section 55 3(b) of the Employment and Assistance for Persons with Disabilities Regulation. The panel also notes that

though the appellant's mother stated that his father contacted several moving companies and chose the least expensive one to move the appellant's possessions into storage, there was no evidence provided that he presented these quotes to the ministry and received prior approval for his choice of that company by the ministry. The evidence includes an invoice from the company that was chosen to move the appellant's possessions into storage, but no quotes from the other companies the appellant's father stated he considered. Given the evidence above related to the question of whether the ministry gave its prior approval for the move into storage of the appellant's possessions, the panel finds the ministry's decision reasonable with respect to Section 55 3(b) of the Employment and Assistance for Persons with Disabilities Regulation.

In summary, though the panel finds the ministry's decision unreasonable with respect to the ineligibility of the appellant for a supplement for the April move, the panel finds the ministry's decision reasonable with respect to the appellant not having met the condition of obtaining prior approval for the April move. The panel therefore finds reasonable the ministry's decision to deny the appellant \$1032.99 for moving and storage costs, and the panel confirms the ministry's decision.