

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry's) reconsideration decision dated November 20, 2013 which denied the appellant's request for a moving supplement to pay her storage costs for the month of November. The ministry denied the supplement on the basis that the appellant's request did not meet the statutory requirements of Schedule A or section 57 of the Employment and Assistance Regulation (EAR).

Specifically, the ministry determined that::

- storage costs are not an allowable shelter cost, nor does the appellant have room in her shelter allowance as she already receives the maximum income assistance for her family unit size (\$610 per month support and shelter); and
- the appellant's request for storage costs did not meet the moving supplement eligibility criteria pursuant to section 57 of the EAR in that the appellant did not move to confirm employment, or because her accommodations were being sold, demolished, or condemned; nor were her shelter costs significantly reduced, and she did not move to avoid an imminent threat to her physical safety.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 57, and Schedule A

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

1) The appellant's Request for Reconsideration dated November 6, 2013 in which she states that she has been working on her recovery since June 9th when she entered a treatment centre. She stayed there for 90 days, then she moved to the second stage facility where she currently resides. She states that she has all of her furniture and the majority of her belongings in storage as the second stage facility provides furnished rooms, and has a two bag limit for possessions. She is looking for a new career, attending an employment centre, and applying for retraining funding. She feels that she needs to remain in a supportive living environment, and she has no family or friends with whom to store her belongings. The appellant adds that she hopes to move into her own place early in 2014, and when this happens she will not be in a position to buy furniture and household items. She is doing her best to pay off bills and provide spending money for her two children. She states that she has worked her entire life except for two brief periods, and she has been under tremendous stress due to the recent death of her partner. Her \$60 comfort allowance is not enough to live on and will definitely not cover her storage costs.

2) Fax from second stage treatment society dated October 23, 2013 indicating that the appellant has resided at their facility since September 2013. She was receiving Employment Insurance benefits (EI) at the time of her admission but her EI expired in mid-October with a final payment of \$140;

3) Admission Notice from second stage treatment society dated October 23, 2013 indicating that effective September 9, 2013, the appellant's room and board rate is \$550 per month, and she owes \$410 for October; and

4) Payment Receipt from a storage company dated October 1, 2013 indicating a rent charge of \$137.61 for a 5x10 foot storage unit, with zero balance due as of October 31st.

In her Notice of Appeal dated December 9, 2013, the appellant states that she resides in second stage housing and cannot afford to move at this time. She is searching for employment and plans to move once she secures a job. She has furniture and a bed for a bachelor suite in storage, and the storage fee is less expensive than replacing her belongings when she moves. As these statements relate to her current living situation, her plans for a future move; and cost-savings for leaving her belongings in storage, the panel admits the statements in the Notice of Appeal as written submissions in support of information that was before the ministry at the time of the reconsideration decision under section 22(4)(b) of the Employment and Assistance Act (EAA).

The appellant did not attend the hearing. After establishing that the appellant had been notified of the hearing date and time the hearing proceeded under section 86(b) of the Employment and Assistance Regulation.

At the hearing, the ministry summarized its reconsideration decision, stating that subject to the regulations (section 4 of the EAA) a moving supplement can be paid if the person is eligible. There is no supplement per se for storage fees under the regulations but the criteria for a moving supplement must be met in order for the ministry to pay storage costs. The ministry added that it is its policy to

pay storage fees when the moving supplement criteria are satisfied and possessions need to be stored for a limited period of time.

The ministry stated that the appellant did not meet the criteria for a moving supplement under section 57 of the regulation because she was not moving for the reason of confirmed employment, or because her accommodations were being sold or demolished; her shelter costs were not reduced due to a move, nor was she moving to escape a threat to her physical safety. Even though storage fees are considered to be a moving cost under policy, the appellant is not eligible to have her storage costs paid because she does not meet the criteria for the moving supplement.

The ministry further stated that the appellant has no room in her shelter allowance for storage costs because she receives \$610 per month, the maximum support and shelter rate that she is eligible for. The ministry paid \$550 for her room and board and provided her with a \$60 comfort allowance.

In reply to a question from the panel, the ministry explained that the appellant's situation in November was different from her circumstances in July and August when the ministry did cover her storage costs. In the summer months the storage costs were considered to be a moving cost when the appellant checked into the treatment centre in June. However, she was already situated in the second stage recovery house in November; having moved there in September with the ministry paying her room and board. The appellant had paid the storage costs herself for September and October when she was in receipt of EI benefits, but the storage costs are no longer considered to be a moving expense in November when the appellant had resided in the same place since September and was no longer moving her belongings from one place to another with a need to store her possessions for a limited period of time.

The ministry stated that additional criteria must also be satisfied in order to be eligible for a moving supplement. These include having no available resources to pay for moving costs, and obtaining the ministry's pre-approval prior to incurring the costs. However, the ministry did not need to consider these criteria in their reconsideration decision because the appellant did not meet the initial criteria of moving for one of the reasons set out in section 57 of the EAR..

The panel makes the following findings of fact:

(a) the appellant has storage costs of \$137.61 per month for her furniture and household items; there is a 2 bag limit in her current residence, and she has no family or friends who are able to store her belongings;

(b) the appellant has lived in a second stage treatment house since September 2013, and receives the maximum support and shelter rate of \$610 per month, with the ministry paying \$550 for her room and board;

(c) the ministry paid the appellant's storage costs in July and August after she had moved to a treatment centre in June, and the appellant paid for her storage unit in September and October while receiving EI benefits; and the ministry's policy is to pay storage costs where a client is eligible for a moving supplement and must store their belongings for a limited period of time.

PART F – Reasons for Panel Decision

The issue being appealed is whether the ministry's decision to deny the appellant's request for a moving supplement for storage costs on the basis that she did not meet the statutory requirements of Schedule A and section 57 of the EAR or have room in her shelter allowance to pay for storage, was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant sections of the EAR are as follows:

Supplements for moving, transportation and living costs

57 (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 income assistance, other than as a transient under section 10 of Schedule A, 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 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;

(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.

Schedule A

Monthly support allowance

2(1) A monthly support allowance for the purpose of section 1(a) is the sum of

- (a) the amount set out in Column 3 of the following table for a family unit described in Column 1 of an applicant or a recipient described in Column 2, plus
- (b) the amount calculated in accordance with subsections (2) to (4) for each dependent child in the family unit.

Item	Family unit composition	Age or status of applicant or recipient	Amount of support
1	Sole applicant/recipient and no dependent children	Applicant/recipient is under 65 years of age	\$235.00

Monthly shelter allowance

4 (1) For the purposes of this section: "family unit" includes a child who is not a dependent child and who resides in the parent's place of residence for not less than 40% of each month, under the terms of an order or an agreement referred to in section 1 (2) of this regulation; "warrant" has the meaning of a warrant in section 15.2 [consequences in relation to outstanding arrest warrants] of the Act.

(B.C. Reg. 73/2010)

(2) The monthly shelter allowance for a family unit to which section 15 (2) of the Act does not apply is

the smaller of (B.C. Reg. 73/2010)

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Family Unit Size	Maximum Monthly Shelter
1	1 person	\$375

How actual shelter costs are calculated

5 (1) For the purpose of this section, utility costs for a family unit's place of residence include only the following costs:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro;
- (e) garbage disposal provided by a company on a regular weekly or biweekly basis;
- (f) rental of one basic residential single-line telephone.

(2) When calculating the actual monthly shelter costs of a family unit, only the following items are included:

- (a) rent for the family unit's place of residence;
- (b) mortgage payments on the family unit's place of residence, if owned by a person in the family unit;
- (c) a house insurance premium for the family unit's place of residence if owned by a person in the

family unit;

(d) property taxes for the family unit's place of residence if owned by a person in the family unit;

(e) utility costs;

(f) the actual cost of maintenance and repairs for the family unit's place of residence if owned by a person in the family unit and if these costs have received the minister's prior approval.

(3) If utility costs fluctuate, they may be averaged over the periods

(a) beginning on October 1 and ending on March 31, and

(b) beginning on April 1 and ending on September 30.

(4) If 2 or more family units share the same place of residence, the actual shelter costs of any one of them are the smaller of

(a) the amount calculated by

(i) dividing the actual shelter costs for all the family units by the number of persons occupying that place of residence, and

(ii) multiplying the result by the number of persons in that one family unit, and

(c) the amount declared by the family unit as the shelter costs for that family unit.

People receiving room and board

6 (1) For a family unit receiving room and board other than in a facility mentioned in section 8 or 9 of this Schedule or from a relative referred to in subsection (2), the amount referred to in section 28 (a) [amount of income assistance] of this regulation is the smaller of the following amounts:

(a) the sum of

(i) the actual cost of the room and board, plus

(ii) \$60 for each calendar month for each applicant or recipient, plus

(iii) \$40 for each calendar month for each dependent child in the family unit;

(b) the amount calculated under sections 1 to 5 of this Schedule for a family unit matching the applicant's or recipient's family unit.

(2) If a family unit receives room and board from a parent or child of an applicant or a recipient in the family unit, only the following amounts may be provided:

(a) the support allowance that is applicable under sections 2 and 3 of this Schedule to a family unit matching the applicant's or recipient's family unit;

(b) Repealed (B.C. Reg. 62/2010)

People receiving special care

8 (1) For a person who receives accommodation and care in a special care facility or a private hospital or who is admitted to a hospital because he or she requires extended care, the amount referred to in section 28 (a) [amount of income assistance] of this regulation is the sum of

(a) the actual cost, if any, to the applicant or recipient of the accommodation and care at the rate approved by the minister for the type of facility, plus

(b) a comforts allowance of \$95 per person for each calendar month. (B.C. Reg. 161/2005)

(2) If the special care facility is an alcohol or drug treatment centre, the minister may, in addition, pay either or both of the following while the applicant or recipient is in the alcohol or drug treatment centre:

(a) actual shelter costs for the applicant's or recipient's usual place of residence up to the amount under section 4 for a family unit matching the applicant's or recipient's family unit;

(b) a monthly support allowance for the applicant's or recipient's family unit, equal to the amount calculated under sections 2 and 3 of this Schedule minus the portion of that allowance that would be provided on account of the applicant or recipient.

People in emergency shelters and transition houses

9 For a family unit receiving accommodation and care in an emergency shelter or transition house, the amount referred to in section 28 (a) [amount of income assistance] of this regulation is

- (a) the actual cost, if any, to the family unit of the accommodation and care at the rate approved by the minister for the type of emergency shelter or transition house, plus
- (b) the support allowance calculated under sections 2 and 3 of this Schedule for a family unit matching the family unit of the applicant or recipient. (B.C. Reg. 316/2008)

The appellant's position is that she requires a moving supplement for storage costs because she is living in furnished accommodations with a two bag limit cannot afford to move at this time. She is looking for employment and plans to move after securing a job. She has furniture and a bed in storage and it is less expensive to pay for the storage than to replace the items when she moves. She is paying off bills and trying to provide spending money for her children and cannot afford to pay storage with the \$60 comfort allowance that she receives.

The ministry's position is that the appellant is not entitled to have her storage costs paid because she is not eligible for a moving supplement; storage costs are not an allowable shelter cost; and she does not have room in her shelter allowance to pay storage costs as she currently receives the maximum income assistance rate of \$610 for her family unit. The ministry's position is that while they can assist with temporary storage costs when required due to a move, the request must still meet the moving supplement eligibility criteria pursuant to section 57 of the EAR. The appellant's request for storage costs did not meet the criteria because the appellant did not move to confirm employment, or due to her accommodations being sold, demolished, or condemned; nor were her shelter costs significantly reduced, nor did she move to avoid an imminent threat to her physical safety. The ministry submits that the appellant was not moving at all when she requested a moving supplement to pay storage costs because she had been residing in the second stage recovery house since September.

Regarding the ministry's policy to cover temporary storage costs where a client is eligible for a moving supplement, the panel notes that storage costs are not specifically mentioned in the EAR. The ministry argues that its policy, which is not included in the documentation before the panel, covers temporary storage costs where a client is eligible for a moving supplement. However, the ministry also argues that the appellant is not moving and thus does not meet the requirements for a moving supplement. . Policy is a statement issued by the decision makers indicating the considerations which will guide their exercise of discretion or explain how they interpret the legislation. While the panel finds that it is not unreasonable that storage costs may be temporarily incurred during a move, the legislative criteria for a move must still be met. The key consideration is that the appellant applied for a moving supplement which has defined eligibility criteria under section 57 of the regulation.

The panel finds that the ministry reasonably determined that the appellant is not eligible for a moving supplement under section 57 because there is no evidence indicating that she moved for any of the reasons listed in this section: the appellant did not move to confirm employment pursuant to subsection 57(2) (a), or because her accommodations were being sold, demolished, or condemned under 57(2)(c); nor were her shelter costs significantly reduced pursuant to 57(2)(d) as she went from having no shelter costs at the treatment centre to paying \$550 Room and Board at the second stage recovery house. Further, there is no evidence to indicate that she moved to avoid an imminent threat to her physical safety pursuant to 57(2)(e). The moving supplement is intended to "assist with one or

more of these circumstances" as stated in the regulation. Therefore, if none of these circumstances exist, it follows that an applicant would not be eligible for the supplement.

Regarding the ministry's findings that storage is not an eligible shelter cost, and the appellant does not have room in her shelter allowance to cover the cost of her storage unit, the panel notes that the appellant is living in a room and board situation which is described in subsection 6(1) of Schedule A of the regulation; storage costs are not covered under room and board. Further, the appellant is receiving the maximum income assistance rate for her family size (\$610 per month), and once the ministry pays her \$550 room and board, her \$375 shelter allowance per section 4 of Schedule A of the EAR is used up and the appellant has only her \$60 comfort allowance remaining. The panel therefore finds that the ministry reasonably determined that the appellant's storage costs are not an allowable shelter cost and that the appellant does not have room in her shelter allowance for storage costs.

Given the foregoing analysis, the panel finds that the ministry's decision to deny the appellant's request for storage costs as either an allowable shelter cost or as a moving supplement because the legislated criteria of Schedule A and section 57 of the EAR were not met, was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's reconsideration decision.