

## PART C – Decision under Appeal

The Decision under Appeal is the Ministry's Reconsideration Decision, dated April 21 2015, which denied the Appellant funding to attend her own criminal court trial in another province. The Ministry determined that the Appellant was not eligible for a crisis supplement under sec. 57 or 59 of the Employment and Assistance Regulation. The legislation only allowed transportation costs under sec. 57(2)(f) and (g), for hearings related to a child protection proceeding under the Child, Family and Community Service Act ("CFCSA") or in relation to maintenance rights assigned to the ministry; or, under sec. 59, for an unexpected need or expense where failure to obtain the supplement would result in removal of a child under the CFCSA. As the appellant did not fit these criteria she was not eligible for the supplement.

## PART D – Relevant Legislation

EAR            Employment and Assistance Regulation – Sections 57 & 59

## PART E – Summary of Facts

### BACKGROUND

The appellant requested the ministry provide her with travel expenses so that she could attend her criminal trial in another province. She included a letter from her lawyer confirming the trial and the time frame her attendance was necessary; a copy of material from greyhound bus for the cost of travel; information on the costs of hotel rooms; and an estimate of meal costs. The letter from the lawyer stated that one of the subjects of the matter was her child whom the lawyer “understood was apprehended as a result of this allegation.” The request was denied. The ministry advised they had no legislative authority to provide transportation to court hearings unless it involved child protection proceedings under B.C.’s CFCSA. As the matter was not a child protection hearing under the CFCSA the ministry could not issue these funds

The appellant requested reconsideration from the ministry. She advised that she had to be at court, although the specifics could not be fully revealed. She indicated she had been assaulted by her ex-boyfriend and her child had been apprehended for two months. She advised that it had been alleged she assaulted a police officer when she was just protecting her child. She once again requested transportation, meals and accommodation for five days.

The Reconsideration Decision determined that the ministry could only authorize assistance or a supplement as set out in the EAR and that there was no legislative authority for a supplement for travel expenses to attend a criminal court hearing. The EAR only allows transportation costs under sec. 58(2)(f) and 58(2)(g), for hearings related to a child protection proceeding under the CFCSA or in relation to maintenance rights assigned to the ministry; and, under sec. 59, for an unexpected need or expense where failure to obtain the supplement would result in removal of the child under the CFCSA. The ministry determined the appellant was not eligible to receive the requested supplement. The panel notes the decision incorrectly cited sec. 58; the correct sections are 57(2)(f) & (g).

The appellant appealed the Reconsideration Decision to the Tribunal. She stated, among other things, that her child was initially apprehended but returned in late December 2013. This was after an October 2013 incident with her ex-boyfriend where the police arrived and accepted the version of her boyfriend and his nephew. Upon arrest she panicked and is alleged to have assaulted a police officer. She stated the regulations contain a provision for transportation for a recipient who has an outstanding warrant for arrest. She is requesting transportation expenses to avoid an unnecessary warrant for her arrest.

### HEARING

The Appellant gave evidence at the hearing where she stated she was not aware that her ex was using drugs and she was in an abusive relationship that she was getting ready to leave. She did not believe that she was guilty of the offence and the police had acted inappropriately towards her. Since the events she had returned to BC, where she had lived most of her life. Her child was also now in BC in foster care. Her criminal trial had also been adjourned once previously about 7-8 months prior due to a medical issue of the appellant’s. The appellant re-iterated her position in the Notice of Appeal that if she did not get to the other province a warrant would be issued for her and she wished funding to avoid this.

The ministry re-iterated the Reconsideration Decision and stated there is no legislative authority to allow such a supplement for the appellant. In relation to a supplement for outstanding warrants the ministry advised there is such legislation but that this applied only where there was an outstanding warrant and it resulted in a one-way repayable bus ticket to the jurisdiction where the warrant originated.

## PART F – Reasons for Panel Decision

The issue is whether the Ministry reasonably determined the Appellant was not eligible for a supplement to travel to another province to attend her criminal trial.

### EMPLOYMENT AND ASSISTANCE REGULATION

#### *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:

...

**(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 20 [*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.

*Crisis supplement*

**59 (1)** The minister **may provide a crisis supplement to or for a family unit that is eligible** for income assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

**(b) the minister considers that failure to meet the expense or obtain the item will result in**

- (i) imminent danger to the physical health of any person in the family unit, or**
- (ii) removal of a child under the Child, Family and Community Service Act.**

Sec. 57(2)(f) & (g) allow the minister to provide a supplement, to an eligible family unit, for transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the CFCSA, and for transportation costs and living costs resulting from the required attendance of a recipient in the family unit at a hearing, or 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 20.

Sec. 59(1) allows the minister to provide a crisis supplement to an eligible person if the person requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed, is unable to meet the expense or obtain the item because there are no resources available to the family unit, and the minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the person or the removal of a child under the CFCSA.

The Appellant is eligible to apply for these supplements as she is currently a single recipient on Income Assistance. In relation to Sec. 57 and Sec. 59 the issue is whether the appellant is attending a child protection hearing, a child is at risk or removal, or a hearing regarding maintenance rights assigned to the minister is occurring. The ministry determined that as the appellant was requesting the supplement to attend her own criminal charges in another province that the request did not fall under the British Columbia's CFCSA.

The evidence of the appellant is clear; this request is not for transportation costs and living costs required to attend a hearing relating to a child protection proceeding under the CFCSA and it is not for transportation costs and living costs resulting from the required attendance at a hearing, or other requirement the appellant must fulfil, in connection with the exercise of a maintenance right assigned to the minister under section 20 of the EAR. It is so she can attend court to face a criminal allegation. The legislation is clear such a request does not fall under sections 57 and the appellant cannot bring herself within the requirements of sec. 57 of the EAR.

It is also clear from the appellant's evidence that the requested supplement is not to meet an unexpected expense where the failure to meet the expense will result in the removal of a child under

the CFCSA. There is no removal of a child happening; the child is already in foster care in BC. As such, the appellant does not fall under the requirements of sec. 59 of the EAR.

The panel finds that the Ministry's decision was reasonable in determining that the appellant did not qualify for the supplement under either sec. 57 and 59 of the EAR. The panel finds that the decision by the ministry was reasonable based on the legislation and all the evidence and confirms the decision. The Appellant is not successful in this appeal.