

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated May 19, 2015 that denied the appellant's application to cover \$999 of funeral costs for her deceased adult son. The ministry found that the criteria of The Employment and Assistance Regulation section 65 were not met because she did not receive re-approval for the expense and because the bill submitted had already been paid therefore there were resources available to cover the expense.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 65

PART E – Summary of Facts

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

- A statement of the amount owing to the health authority in the name of the appellant's deceased adult son. It shows the amount of \$455 owing for "Hospice Per Diem" costs.
- The death certificate of the appellant's deceased adult son showing date of death in March 2015.
- An invoice dated March 27, 2015 from a funeral company for the funeral and cremation of the appellant's deceased adult son. The amount for the services was \$999 which is shown as paid.
- A written statement from the appellant undated. The appellant writes that her deceased adult son's cremation had to take place 5 days after his death and she was not aware she was required to submit a statement to the ministry prior to his cremation. She added that her son had no death benefits.
- The appellant wrote in her Request for Reconsideration that her son has lived in a group home his entire adult life and is not entitled to a CPP death benefit and that his group home could not obtain funds for his cremation costs.

At the hearing the appellant told the panel that in his final days, her son spent some time in a hospice where she signed the authorization to cremate his remains should he pass away. She was not aware she was required to submit a cremation request to the ministry prior to the cremation of her son. The crematorium would not provide services unless the invoice had been paid. Her son's group home handled all of his financial affairs including receiving his income and paying his expenses.

The appellant told the panel that she was not aware her son had a bank account until after he passed away since the group home managed the account on her son's behalf. She explained that the costs of the cremation services of \$999 was paid with money from her son's personal bank account and that she did not contribute any of her own funds to the cost. She added she is the sole beneficiary of his estate and she is not the executor of the estate. This new information was admitted as evidence as per the Employment and Assistance Act section 22 (4). The panel found that the evidence is in support of evidence that was before the ministry at the time of the reconsideration because it provides further explanation of how the funeral expenses were paid.

The ministry told the panel that pre-approval for funeral expenses is not required however the ministry needs to have financial documentation of the deceased person's estate to determine if the estate has the funds available to cover all, or part, of the cost. Although the appellant did not receive preapproval for her son's funeral expenses, if she had submitted his financial information prior to his cremation, she would not have qualified to have the ministry pay the costs because the appellant's estate had sufficient funds to meet the need. The ministry added that, until the hearing, it was not aware that the cremation costs were paid by the deceased's personal bank account and the reconsideration decision was written assuming the appellant paid the cremation expenses from her own funds.

PART F – Reasons for Panel Decision

The decision under appeal is the ministry's reconsideration decision that denied the appellant's application to cover \$999 of cremation costs for her deceased adult son. The ministry found that there was not pre-approval for the expense and that the bill submitted had already been paid therefore there were resources available to cover the expense.

The applicable legislation is the EAR section 65 which states:

Burial or cremation supplements

65 (1) In this section:

"extraprovincial transportation", with respect to a person who dies in Canada but outside British Columbia, means transporting the deceased person's body within the province or territory in which death occurred for the purposes of providing a service described in paragraph (b) or (c) of the definition of "funeral costs";

"funeral costs" means the costs of the following items, as set out in Schedule F:

- (a) intraprovincial transportation costs;
- (b) services of a funeral provider, as defined in the *Cremation, Interment and Funeral Services Act*;
- (c) cremation or burial of a deceased person's body or remains, including the cost of a casket or urn;

"interprovincial transportation" means preparing the deceased person's body for transport to British Columbia and transporting the body to British Columbia;

"intraprovincial transportation" means transporting a deceased person's body within British Columbia for the purposes of providing a service described in paragraph (b) or (c) of the definition of "funeral costs";

"responsible person", with respect to a deceased person, means,

- (a) a spouse of the person,
- (b) in the case of a minor, a parent of the person, or
- (c) in the case of a person sponsored to immigrate to Canada under the *Immigration Act (Canada)* or the *Immigration and Refugee Protection Act (Canada)*, a sponsor or co-sponsor of the person, if the undertaking given or co-signed by the sponsor is still in effect.

(2) If neither the estate of a deceased person nor any responsible person has the resources available to pay any of the following costs when payable, the minister may provide a supplement for those costs in the circumstances specified:

- (a) necessary funeral costs, if
 - (i) the person died in British Columbia, and
 - (ii) the burial or cremation is to take place or has taken place in British Columbia;
- (b) necessary funeral costs and, with the prior approval of the minister, the necessary interprovincial transportation costs, if
 - (i) the person died in Canada but outside British Columbia,
 - (ii) immediately before the death, the deceased person was a recipient of income assistance, disability assistance or hardship assistance, and
 - (iii) the burial or cremation is to take place or has taken place in British Columbia;
- (c) with the prior approval of the minister, the necessary extraprovincial transportation costs and necessary funeral costs, if
 - (i) the person died in Canada but outside British Columbia,
 - (ii) immediately before the death, the deceased person was a recipient of income assistance, disability assistance or hardship assistance, and
 - (iii) the burial or cremation is to take place in the province or territory in which the death occurred;
- (d) necessary funeral costs, if
 - (i) the person died outside British Columbia, or in the case of a recipient of income assistance, disability assistance or hardship assistance, died outside Canada,
 - (ii) immediately before the death, the person was ordinarily resident in British Columbia, and
 - (iii) the burial or cremation is to take place or has taken place in British Columbia.

Arguments of the Parties

The argument of the appellant is that she is eligible to have her son's cremation costs reimbursed to her because she was unaware she was required to receive pre-approval from the ministry.

The argument of the ministry is that the appellant failed to receive pre-approval from the ministry to have the cremation costs for her adult son paid by the ministry. The ministry argues, since the invoice for \$999 in funeral costs was already paid when it was submitted to the ministry for reimbursement, there were sufficient resources available to pay for the services.

Panel Decision

In its review of the documents contained in the appeal record, the panel notes that there is no evidence regarding where the \$999 came from to pay the cremation costs. At the hearing the appellant testified that the \$999 cremation cost was paid from her deceased son's personal bank account. When a person dies, all assets, including money in their bank account, become part of the deceased's estate. The legislation, section 65 (2) of the EAR, requires that the cremation expenses be paid from the deceased person's estate if there are funds available. As the \$999 was paid from the appellant's son's estate (his bank account) the panel finds the ministry was reasonable to deny the appellant's request to have the \$999 reimbursed to her.

The panel notes that because the money used to pay the \$999 cremation expense was available in her son's estate, the fact that the appellant had not requested preapproval from the ministry would not have changed the outcome of her request. The legislation does not require preapproval of funeral costs if the person dies in British Columbia and the burial has taken place in British Columbia, as in the case of her son. However the legislation regarding cremation supplements does not allow for reimbursement of funeral expenses when the deceased person's estate has sufficient resources to cover the expense.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.