

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision dated December 16, 2015 made by the Ministry of Social Development and Social Innovation (the ministry) which determined that the appellant was not eligible for the cost of storing her household goods while attending a recovery house for women because the legislation does not allow for the ministry to pay storage fees except in the context of a moving supplement which is not applicable here because:

1. the storage costs are not “moving costs” as the term is defined in section 55(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR);
2. the circumstances of the appellant’s “move” do not comply with the requirements set out in section 55(2) of the EAPWDR; and
3. the appellant did not apply for or receive prior approval for moving costs as required by section 55(3)(b) of the EAPWDR.

PART D – Relevant Legislation

The relevant legislation is section 55 of the EAPWDR.

PART E – Summary of Facts

The appellant is a single recipient of disability assistance.

On October 7, 2015 the appellant provided the ministry with her admittance form from recovery house for women indicating her admittance date would be October 30, 2015.

The Ministry acknowledged receipt of the admittance form on October 13, 2015.

On October 30, 2015, the appellant was admitted to a recovery house for women in a city to which she had to travel from her home city.

On November 6, the appellant informed the ministry that she had given up her apartment to move into the recovery house for women.

On November 23, 2015, the appellant provided the ministry with an invoice from a storage company in her home city for the period October 28, 2015 to November 22, 2015 in the amount of \$161.70 with a request that the ministry pay the invoice.

On November 26, 2015, the ministry informed the appellant that it could not pay the invoice.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's determination that the appellant is not eligible to receive funding for her storage costs because she does not meet the legislative criteria as set out in section 55 of the EAPWDR.

The relevant legislation is section 55 of 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 [*assignment of 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.

NEW EVIDENCE

This was a written appeal and the appellant submitted a note from her physician as part of her written submission which states: “[The appellant] requires to be in her current intensive residential treatment centre, any disruption to her treatment plan could result in significant risk to her mental health.”.

As this physician’s note was new evidence not before the ministry at the time of its reconsideration decision, the panel considered its admissibility in accordance with section 22(4) of the *Employment and Assistance Act* and found that it is admissible because it supports the information that was before the ministry at the time of the reconsideration decision regarding the appellant’s mental health.

THE APPELLANT’S POSITION

In her written submission the appellant states that:

- The storage fees are temporary while she is in treatment and allow her to be away from the city where her addictions threaten her health;
- she has been dealing with serious mental health issues including PTSD, depression, anxiety and borderline personality disorder since 1990;
- she left her job in 2000 on stress leave and lived off her savings until 2010 when she was diagnosed with fibromyalgia and moved onto disability assistance;
- mental health issues, chronic pain and sleep disorder led her to addiction and thoughts of suicide;
- in October 2015 she hit breaking point and gave her notice for her apartment, applied for and was accepted into addictions treatment in another city and placed all her belongings in storage;
- she did not contact the ministry about this move because it happened quickly and she was not in a fit mental state;
- she is currently receiving treatment and hopes to get back to work eventually.

THE MINISTRY’S POSITION

The ministry relied upon its reconsideration decision which states that:

1. the storage costs are not “moving costs” as the term is defined in section 55(1) of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR);
2. the circumstances of the appellant’s “move” do not comply with the requirements set out in section 55(2) of the EAPWDR; and
3. the appellant did not apply for or receive prior approval for the storage costs as required by section 55(3)(b) of the EAPWDR.

THE PANEL’S DECISION

1. Definition of “moving costs” in the legislation
Section 55(1) of the EAPWDR states:

“moving cost” means the cost of moving a family unit and its personal effects from one place to another

[]

The ministry argues that the appellant's request for payment of her storage fees are not "moving costs" because they are not part of her "moving ... from one place to another" but rather ongoing costs of her temporary relocation into and stay at a recovery house.

In effect, the definition allows for the ministry to fund storage costs during a move if those costs are part of the move. Here, the appellant has temporarily entered a treatment facility and is looking to have storage costs paid for while in attendance at the facility. That situation is not contemplated under the definition.

The panel finds that the ministry's position was a reasonable interpretation of the legislative definition.

2. Requirements for the costs of a move to be paid for
- Subsection 55(2) sets out an exhaustive list of when moving costs can be paid for by the ministry. This is limited to circumstances in which:
- a) Anywhere in Canada if the applicant has confirmed employment;
 - b) Another area of BC if it is necessary to avoid an imminent threat to physical safety of the applicant;
 - c) Another province if it will improve the applicant's living circumstances;
 - d) Within or to another municipality if the applicant's current accommodation is being sold, demolished or condemned; and
 - e) Within or to another municipality if the applicant's shelter costs would be significantly reduced.

As none of these circumstances match those of the appellant, the panel finds that the ministry's determination in this regard was a reasonable application of the legislation to the facts.

3. Prior approval
- Section 55(3)(b) requires that an applicant for moving costs receive pre-approval for the costs. In this case, although the appellant states that things happened too quickly to do so and that she was not in a mental state to be able to do so, the fact is that she had a number of weeks between notifying the ministry of her acceptance into the recovery facility and travelling to the facility to apply for pre-approval. In any case, she did not apply for or receive pre-approval for her storage costs and this is a statutory requirement.

Therefore the panel finds that the ministry was reasonable in finding that the appellant had not received pre-approval for her storage costs as required by the legislation.

Based on the above analysis, the panel finds that the ministry's determinations that it could not pay the storage costs of the appellant because the appellant's request did not comply with the requirements of section 55 of the EAPWDR was a reasonable application of the legislation to the circumstances of the appellant.

The panel confirms the ministry's decision.