

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation’s (the “Ministry’s”) reconsideration decision dated July 28, 2016, which held that the appellant was not eligible for a supplement for the cost of one night’s accommodation for the night before her move, either as a moving supplement under section 55 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), or as a crisis supplement under section 57(1). The Ministry determined the appellant did not satisfy the requirements of section 55 because accommodation is not a moving cost. Neither did she satisfy section 57 because the appellant did not establish there were no alternative resources available to her and there was insufficient information to establish an imminent danger to her physical health.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation, ss. 55 and 57(1) (“EAPWDR”)

PART E – Summary of Facts

Information before the Ministry at reconsideration

On April 14, 2016, the appellant contacted the Ministry to request a moving supplement to move her belongings to a storage facility in a new community where she was temporarily staying to receive medical care. The new community was separated from her current residence by a ferry commute and multiple transit connections. The appellant had been given a notice to vacate her current residence as the property was being sold.

On April 19, 2016, the appellant contacted the Ministry requesting funding for an overnight stay in the community of her current residence so that she could pack her belongings and meet with the movers.

On April 26, 2016, the Ministry advised the appellant that it approved moving costs in the amount of \$1,795 for a move using a specific moving company, however, the Ministry denied the appellant's request for one night's accommodation in her current community for the purpose of packing and meeting the movers.

The appellant paid for two nights of accommodation while she packed and met with movers.

The appellant then contacted the Ministry on several occasions (May 13, 2016, May 18, 2016, May 24, 2016, and June 20, 2016), seeking reimbursement of one night's accommodation and submitting various documents in support of her request.

On June 23, 2016, the Ministry denied the appellant's request for reimbursement of one night's accommodation, and on July 15, 2016 the appellant requested reconsideration of the Ministry's decision.

Documents before the Ministry at reconsideration included the following:

- The appellant's request for reconsideration which attached a submission dated July 14, 2016 in which the appellant stated:
 - It would have been impossible for her to meet the movers in the morning without staying overnight in the community of her current residence due to ferry and transit schedules, and if she met the movers later in the day they could not complete the move in one day;
 - The ferry broke down and was late leaving, so the movers were unable to complete the move in one day in any event;
 - There was no way she could have packed all her belongings in one day;
 - The Ministry had told her "from the beginning" that they would fund one night's accommodation, "but nobody noted on the file that it was approved";
 - She was not allowed to stay at her current residence because she had stopped paying rent on April 1, 2016 and the other tenants at the house would not allow her to stay and had dismantled her beds;
 - Her total out-of-pocket expenses for the move left her with only 89 cents to live on for the month of May, necessitating that she rely on friends and a stranger's goodwill;
 - She is a single parent of her grandchild with special needs, who was temporarily in foster care while the appellant received medical treatment in the new community;
 - The appellant's medical condition required her, upon receiving the notice to vacate, to

make immediate plans to move, even though she technically had until May 19, 2016 to move. She has an extreme sensitivity to heat and had lost 25 lbs that spring and was fearful if she did not get into her house to pack and vacate immediately, the weather could become too warm for her to cope at all and the bailiff would remove and discard her things;

- The Ministry had told her \$125 was a reasonable accommodation cost and the appellant offered to pay the \$50 cleaning fee herself;
 - The appellant borrowed the money on her credit card to pay for the accommodation and is now using her dietary and nutritional funding to pay the huge interest payments on her credit card;
 - She is in a downward spiral ever since all of this happened and none of this would have happened if the Ministry had let her stay in her original community where her child is located. Now all her stuff is stuck in storage in a community where she does not want to live, but where the Ministry forced her to move when she was there for medical treatment; and
 - The appellant requests reimbursement for \$125 plus GST to allow her to reimburse her credit card company.
- A Shelter Information Form, dated October 24, 2013, with the handwritten note “Original copy was scanned and emailed to landlord for his signature. Then he scanned and sent back so that signed copy is hard to read. He lives in [another city].” The form indicates the appellant renting an accommodation in her current community for \$675 per month.
 - A Shelter Information Form, as above, signed by the landlord.
 - An email from a paralegal at a law firm, indicating that a bank was taking foreclosure proceedings against the appellant’s landlord and that the appellant had to provide vacant possession by May 19, 2016. A handwritten note on the page states, “I am very ill and my health is rapidly deteriorating. I need to move ASAP. I have lost 19 lbs in the past 5 weeks alone. I am extremely sensitive to heat. 90 lb weight loss in one year. Please approve more for April 28th.”
 - A Shelter Information Form, dated April 19, 2016, indicating the appellant renting accommodation in the new community as of April 1, 2016 for the rental fee of \$500 per month.
 - An email quote from an accommodation in the appellant’s current community for April 27, 2016 for the amount of \$125 per night, \$50 cleaning fee, and \$8.75 GST for a total of \$183.75.
 - A quote from a professional moving company in the amount of \$1,795.
 - A quote from a professional moving company in the amount of \$2,395.
 - A quote from a professional moving company in the amount of \$2,315.
 - A statement from the appellant dated May 12, 2016 in which she states the following:
 - Her situation has changed such that she now needs to stay in her current community and commute for medical care so that she can continue to be near her child;
 - Due to the ferry break-down, her moving costs increased and she had to pay the movers an additional \$450;
 - She was told by the Ministry that she could “pick up a cheque at the office” and that she doesn’t think her request is unreasonable for someone in her condition and considering the logistics; and
 - She needs a special diet, is extremely sensitive to the heat, and cannot stay at a homeless shelter.
 - A letter dated May 11, 2016, addressed “to whom it may concern” from a doctor of internal medicine and rheumatology stating the appellant has severe musculoskeletal disease and is

totally and permanently disabled.

- A lab report dated March 23, 2016, with a hand written note on the top that states, “From ER [hospital name] March 23rd signs of malnutrition if my potassium dropped to 2.9 could have been fatal.”
- A receipt from a rental accommodation in the appellant’s current community for April 27, 2016 for \$155.00 plus 7.75 GST for a total of \$162.75, with the notation “Paid in Full” and the appellant’s handwritten note: “I forgot to fax this Friday. I was previously approved for accommodations and told I could pick up a cheque from the office.”
- A written submission from the appellant dated May 19, 2016, stating the following:
 - The appellant has had custody of her grandchild since the grandchild was 13 months old;
 - The grandchild stayed with her godparents during spring break while the appellant temporarily stayed in the new community for medical treatment. The appellant received her notice to vacate during this period;
 - She was approved for a one-night stay in her current community and then the Ministry revoked it. The Ministry needs to take responsibility and follow through on its word;
 - She gave all her rent money to the mover who bullied her after the ferry broke down. She was not in a mental state to stand up to him and she had faith that Income Assistance would do the right thing and not leave her stranded;
 - The ministry is revoking payment of her storage fees because she moved to a shared accommodation nearer to her current community (rather than the new community);
 - She is struggling to find housing that will accommodate both her needs and the needs of her child so that she can get the child out of the system; and
 - Handwritten notes on the statement to the effect that the Ministry is putting her health at extreme risk.
- A letter dated May 4, 2016, addressed “to whom it may concern” from a doctor of internal medicine and rheumatology stating the appellant has severe musculoskeletal arthritis with associated chronic pain syndrome and she also has clinical anxiety and depression requiring follow up by psychiatry. She is unable to perform her normal daily activities or focus and is unable to work. The appellant made a handwritten note on the letter that she is completely incapable of subsidizing her income; her disability affects her cognition and it’s amazing she found a new place to live in her current community without paying first; she cannot abandon her grandchild who she has custody of and who calls her Mommy and she will not move her grandchild to the city as the child has special needs and all her services are set up in the current community.

Information provided on appeal

With her notice of appeal, the appellant included a statement, dated August 15, 2016, in which she states:

- She returned to her current community on April 26th and stayed for two nights, as she needed two nights to pack and she had to meet the movers on the morning of April 28th;
- In order for the movers to “meet their quote” they had to get in a full day’s work on April 28th, so she had to meet them in the morning, necessitating an overnight stay;
- The ferry broke down and, as a result, the movers were not able to get to the storage facility before it closed;
- The appellant herself was not “held back” because of the ferry break down and did not tell the

Ministry she was;

- The medical information she submitted and the information on her file, which includes that she has severe environmental illness and central sensitization syndromes and that she cannot take transit, shows there is no way someone with her condition could be expected to accomplish this move in one day;
- She does not feel comfortable travelling late at night due to a history of sexual assault;
- She went into debt to pay for the accommodation—she did not have the funds;
- She could not delay into May to retrieve her things due to her health condition possibly deteriorating;
- She only asked the Ministry to pay for one of the two nights she stayed at the accommodation; and
- Her benefits have been shortchanged for years on the basis of her being a single person when she is really a single parent.

The appellant submitted an additional document, a letter dated September 6, 2016 from a person with an address at a medical clinic in the appellant's current community (the "September 6 letter"). The September 6 letter states the appellant "had to stay overnight when she was packing for her move as she is unable to commute repetitively due to chronic pain. She was unable to pack and work full days as she has been bothered with worsening pain as [a] result of her moving."

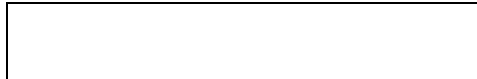
The appellant did not attend the oral hearing. After confirming that the appellant received notice of the hearing, the panel proceeded to hear the appeal in accordance with section 86(b) of the *Employment and Assistance Regulation*.

The Ministry relied on the reconsideration summary provided in the Record of Ministry Decision. Additionally, at the oral hearing, the Ministry made the following submissions:

- Ministry records show that the appellant's request for reimbursement for one night's accommodation had never been approved. Sometimes clients misunderstand a discussion about what they need to show to be approved for a supplement to be approval of the actual supplement.
- The Ministry does not consider use of a credit card (or going into debt) to be an available resource under section 57(1)(a). Nor is using a credit card evidence that no other resources are available. The Ministry acknowledged that the reconsideration decision, which says "You paid for the overnight stay at the time, indicating you had the resources available," is "strangely stated." The Ministry said the real issue is whether there is evidence to verify that the appellant could not access other resources, specifically find another place to stay. The Ministry noted there was no verification—for example from the appellant's landlord—that she could not stay at her current residence, or that she could not stay anywhere else. The Ministry says the record shows the appellant chose to stay where she did so she could visit family, and that no other options were explored or presented to the Ministry.
- The Ministry noted that moving costs are distinguished from living costs in section 55, and that accommodation may only be reimbursed as part of living costs, not as moving costs.
- The Ministry had insufficient information before it to determine that the appellant had to stay at the place she chose to in order to avoid an imminent danger to her health.

Ruling on new evidence

The panel admitted the September 6 letter under section 22(4) of the *Employment and Assistance*



Act as information in support of the information available at reconsideration. The information substantiates the previous information that the appellant could not make the move in one day due to her medical condition.

PART F – Reasons for Panel Decision

Issue on appeal

The issue is whether the Ministry's decision to deny the appellant a moving supplement under section 55 or a crisis supplement under section 57 of the EAPWDR because the appellant did not satisfy the requirements of sections 55(1) and 57(1) is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation: 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.

[am. B.C. Reg. 275/2004, s. 2.]

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability 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](#).

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

- (a) if for food, the maximum amount that may be provided in a calendar month is \$20 for each person in the family unit;
- (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of
 - (i) the family unit's actual shelter cost, and
 - (ii) the maximum set out in section 4 of Schedule A or Table 2 of Schedule D, as applicable, for a family unit that matches the family unit;
- (c) if for clothing, the amount that may be provided must not exceed the smaller of
 - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
 - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) The cumulative amount of crisis supplements that may be provided to or for a family unit in a year must not exceed the amount calculated under subsection (6).

(6) In the calendar month in which the application or request for the supplement is made, the amount under subsection (5) is calculated by multiplying by 2 the maximum amount of disability assistance or hardship assistance that may be provided for the month under Schedule A or Schedule D to a family unit that matches the family unit.

(7) Despite subsection (4) (b) or (5) or both, a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

[am. B.C. Reg. 13/2003.]

The Panel's Decision

An applicant for a moving supplement must meet the requirements of section 55 and an applicant for a crisis supplement must meet the requirements of section 57(1). The Ministry held the appellant had not met the requirements of either section.

Moving supplement—section 55

For a moving supplement, the appellant must show that the cost claimed meets the definition of “moving cost” set out in section 55(1), and then meets one or more of the requirements of section 55(2). “Moving cost” means the cost of “moving a family unit and its personal effects from one place to another” and is distinguished in section 55(1) from “living cost” which means the “cost of accommodation and meals.” While the definition of “living cost” in section 55(1) includes the cost of accommodation, the only conditions under which living costs are reimbursed are set out in subsections 55(2)(f) and (g), neither of which apply to the facts here and neither of which were raised by the appellant or Ministry. At reconsideration, the Ministry determined that the cost of the appellant’s one night accommodation did not fall within the definition of moving cost and therefore the Ministry did not go on to consider the requirements of section 55(2). The Panel finds the Ministry’s decision that “moving cost” does not include the cost of accommodation is a reasonable interpretation of the legislation, given that the legislature chose to explicitly define accommodation as a “living cost.” Therefore, the Ministry’s determination that the appellant was not eligible for a moving supplement to cover the cost of accommodation was a reasonable application of the legislation in the circumstances of the appellant.

Crisis supplement—section 57

An application for a crisis supplement must meet the requirements of section 57(1):

1. The supplement is needed to meet an unexpected expense (s. 57(1)(a));
2. The appellant is unable to meet the expense or obtain the item because there are no resources available to her (s. 57(1)(a)); and
3. The Minister is satisfied that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant (s. 57(1)(b)).

On the first requirement, at reconsideration the Ministry determined that the need to stay a second night was unexpected due to the ferry breakdown. The appellant corrects the Ministry in her notice of appeal, stating she was not held back due to the ferry breakdown. The Panel notes that the Ministry may have misunderstood the reason for the second night of accommodation; nevertheless, as the “unexpected expense” requirement was resolved in favour of the appellant at reconsideration, for the purpose of this appeal, the Panel treats that requirement as not in issue.

On the second requirement, the Ministry determined that the appellant was able to meet the expense because she paid for it. In contrast the appellant says she put the cost on her credit card and has not been able to pay for the expense. At the oral hearing, the Ministry noted the appellant provided no verification that she had no other resources in terms of a place to stay. Beyond the appellant’s submission that the other tenants would not let her stay at her residence, the only objective evidence before the Ministry was a letter from a paralegal which indicated the appellant did not have to vacate

her residence until May 19, 2016—with the implication that she could have stayed there. In these circumstances, without objective verification that the appellant pursued other resources (such as staying at her residence or with family or friends) without success, the Panel finds the Ministry’s determination that the appellant did not meet the precondition of “no alternative resources available to meet the item or expense” is reasonably supported by the evidence.

On the third requirement, the Ministry says there was insufficient evidence to support an imminent danger to the physical health of the appellant, requiring the accommodation. The appellant answers that the Ministry knows her medical history and someone in her condition should not have been expected to accomplish this move within one day. The Panel notes there was information before the Ministry at reconsideration from a medical doctor stating the appellant’s diagnoses and her inability to work, however neither of the letters from the doctor of internal medicine and rheumatology spoke to the issue of imminent danger to the appellant’s physical health as a result of her move. There was a lab report, but it was not accompanied by a medical opinion to explain its significance. The appellant herself stated that her health could deteriorate if she did not move immediately, that it was too much to expect her to accomplish her packing in one day, and that it was difficult for her to cope with this situation. Additionally, the September 6 letter states that the appellant had to stay overnight because she is unable to commute repetitively due to chronic pain and that the appellant has been bothered with worsening pain as a result of the move. It is not clear who wrote the September 6 letter, as it lists no medical credentials; accordingly the Panel gives it little weight. Considering all this evidence, the Panel finds the Ministry’s determination that the evidence was insufficient to be reasonable, as there was no medical evidence to show that imminent danger to the appellant’s physical health would occur if she did not have a paid night’s accommodation in her current community the night before her move.

Conclusion

An applicant for a moving supplement must meet the requirements of section 55, including the definition of moving cost, and an applicant for a crisis supplement must meet the requirements of section 57(1), including that the applicant has no other resources available and that failure to meet the expense or obtain the item will result in imminent danger to physical health. As discussed above, the Panel finds the Ministry reasonably applied the legislation to conclude that accommodation does not fall within the definition of “moving cost.” With respect to a crisis supplement, the Ministry reasonably determined on the evidence that the appellant had not met the preconditions of no alternative resources and there was no imminent danger to the appellant’s physical health. Therefore, the Panel finds that the Ministry’s decision that the appellant is not eligible for a moving supplement or crisis supplement is a reasonable application of the legislation in the circumstances of the appellant, and reasonably supported by the evidence. The Panel confirms the Ministry’s reconsideration decision.