



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated October 18, 2016, finding the appellant is not eligible for assistance with the funeral costs for her deceased mother. The ministry found that the criteria of Section 65 of the Employment and Assistance Regulation were not met because the ministry only provides assistance with funeral costs where there are no other resources available.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) Section 65 and Schedule F

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The information before the Ministry at the time of reconsideration was:

- A letter from Service Canada dated September 22, 2016 denying Canada Pension Plan (CPP) Death Benefits
- A letter from the appellant dated October 7, 2016 explaining she had borrowed funds to pay for her mother's funeral expenses expecting she would be reimbursed through the CPP Death Benefit, but was determined not eligible
- A receipt from Credible Cremation Services for payment of direct cremation in the amount of \$1,430.48 dated July 6, 2016
- 2015 Tax Assessment Notice in appellant's name dated April 7, 2016

The Ministry accepts that as the appellant is the daughter of the deceased she is not defined as one of the *responsible persons* as outlined in legislation, therefore whether she personally had the resources to pay the funeral costs is not under review.

For their written submission, the ministry relied on the reconsideration summary provided in the Ministry Decision.

As part of the written appeal package, the appellant wrote:

- she was informed by funeral home that Service Canada death benefit would cover the expenses
- she took out a loan and paid \$1430.48 for the funeral expenses
- Service Canada denied the death benefit
- she is a recipient of CPP Disability with 2015 total income of \$12,924
- her mother was a recipient of old age security and income supplement
- paying off the loan is a hardship since her income is at the poverty level

The appellant's mother passed away on June 25, 2016.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision finding the appellant is not eligible to receive funeral costs because she does not meet the legislated criteria found in section 65 of the EAR, specifically that the ministry only provides assistance with funeral costs where there are no other resources available.

The relevant legislation is section 65 and Schedule F of the EAR:

Burial or cremation supplements

65 (1) In this section:

"**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;

"**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.

(3) For the purposes of subsection (2), funeral costs, and interprovincial transportation and extraprovincial transportation costs are necessary if the minister determines that

- (a) the item or service in relation to which a supplement is requested is a necessary item or service, and
- (b) the item or service is or was appropriate.

(3.1) The amount of a supplement payable under subsection (2) is,

- (a) in respect of a funeral provider's fee for services, an amount that is, in the opinion of the minister, the lowest reasonable cost,
- (b) in respect of a particular item or service that is a funeral cost, other than a service included in a funeral provider's fee for services,
 - (i) the cost for the item or service set out in Schedule F, or
 - (ii) if there is no cost set out for the item or service in Schedule F, the cost that is, in the opinion of the minister, the lowest reasonable cost for that item or service, and
- (c) in respect of interprovincial transportation or extraprovincial transportation, the cost that is, in the opinion of the minister, the lowest reasonable cost.

(4) The amount of a supplement paid under this section is a debt due to the government and may be recovered by it from the deceased's estate.

Schedule F

Burial and Cremation Costs

Burial and cremation supplement

1 A supplement that is paid under section 65 of the regulation may include the following amounts:

- (a) an amount for a funeral provider's fee for services;
- (b) an amount for the costs of intraprovincial transportation, if that transportation is for a distance greater than 32 kilometres;
- (c) in respect of a burial, an amount for the costs set out in section 4 of this Schedule;
- (d) in respect of a cremation, an amount for the costs set out in section 5 of this Schedule.

Funeral provider's fee for services

2 The services provided in respect of a funeral provider's fee for services must include:

- (a) intraprovincial transportation, if that transportation is for a distance of 32 kilometres or less;
- (b) completion and filing of the registration of death;
- (c) obtaining a burial or cremation permit;
- (d) co-ordination with a crematorium and cemetery;
- (e) all professional and staff services;
- (f) preparation of a deceased person's body for burial or cremation, including basic sanitary care and casketing;
- (g) use of the funeral provider's facilities and equipment, including a preparation room, refrigeration and parking and service areas;

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(h) other items or services incidental to or provided as part of any of the services described in paragraphs (a) to (g), as agreed by the funeral services provider and the responsible person.

Costs of cremation

5 (1) A supplement payable in respect of a cremation may include an amount for the following costs:

- (a) cremation fees;
- (b) the cost of a cremation plot in British Columbia;
- (c) grave opening and closing fees;
- (d) if a concrete grave liner is required by the cemetery, the cost of the grave liner;
- (e) the cost of an urn in an amount not to exceed \$200.

(2) The minister may pay for the remains of a deceased person to be interred at a location within British Columbia other than the location at which the remains were cremated in an amount not to exceed the amount that would be payable for the costs described in subsection (1) (b) to (d).

The Appellant's Position

The appellant's position is that she had been told by the funeral home to pay the funeral costs as she would be reimbursed by receiving CPP Death Benefits, however these were denied. She took out a loan which is now a hardship to repay, based on her limited resources.

The Ministry's Position

The ministry's position is that the funeral bill was paid, so therefore the estate had resources available at the time the costs were incurred. They note there is no documentation from the settlement of the estate, such as bank statements or division of assets, to satisfy the ministry that there were not financial resources available within the estate to cover the necessary funeral costs. They also note the receipt for funeral services does not contain a breakdown of costs incurred to determine the amount of the supplement that the estate may have been eligible for, if there were not resources available from the estate.

The Panel's Analysis

In reviewing EAR Section 65(2) the panel notes the ministry may pay for certain funeral costs if the estate, or a responsible person, has no resources. In EAR Section 65(1) the definition of a "responsible person", with respect to a deceased person, means: a spouse; if a minor, a parent of the person; or in the case of a person sponsored to immigrate. The panel notes, and the ministry acknowledged, that the appellant is not considered a responsible person in this instance, being that she is the daughter and does not fit the other definitions, so therefore her resources are not taken into consideration.

The panel then considered whether the estate has any resources to pay. In its review of the documents contained in the appeal record, the panel notes there is no evidence to show what resources were in the estate of the deceased that could have been used to pay funeral expenses, and in fact there is a receipt showing funeral costs were paid in full. Although the appellant indicates she borrowed the funds to pay the bill and now cannot afford to pay it back, the legislation states that the resources are to come from the estate of the deceased, and there is no evidence in the record



that confirms whether or not there were any resources available.

Conclusion

The panel finds that the ministry's decision to deny the appellant funeral costs was a reasonable application of the legislation in the circumstances of the appellant and confirms the decision.