PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "ministry") October 11, 2017 reconsideration decision denying the appellant's request for a moving supplement because the appellant did not meet the eligibility criteria under section 55(2), 55(3)(a) or 55(4)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry found that the appellant

- did not move because she is not working but has arranged confirmed employment that will significantly promote the financial independence of her family unit and she is required to move to begin that employment;
- did not move to another province or country;
- did not move because her accommodation was being sold, demolished or condemned;
- did not move to another area of BC to avoid an imminent threat to the physical safety of a member of the family unit;
- did not move because the family unit's shelter costs would be significantly reduced as a result of the move;
- has not demonstrated that there are no resources available to cover her moving costs;
- is not requesting the least expensive appropriate mode of moving.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 55.

PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration included the following:

- From ministry records:
  - The appellant is a sole recipient with 2 dependent children and has PWD designation.
  - She received $1464.14 for disability assistance for September 2017. This includes $747.08 for support allowance, $660 for shelter allowance, $5.06 for family bonus top up, and $52 for transportation support allowance. Employment Insurance (EI) of $1378 was deducted from this amount.
  - At her current residence she pays $1100 rent per month.
  - On September 26, 2017 the appellant requested a moving supplement to move to a different community within BC.
  - She provided the following quotes from moving companies:
    - Company X: $1049 (does not include movers).
    - Company Y: $ 140 per hour – estimated 10.5 hours.

- A Letter by the school district dated September 5, 2017, confirming that the appellant is on their teacher-on-call list.
- A Statement of Earnings by this school district for the pay period ending September 23, 2017, with a net pay of $477.06.
- The appellant wrote on an availability worksheet dated August 30, 2017: "I wrote that I can work here before trying it out and realizing that it is unrealistic. The school district is aware of this and calls are greatly reduced until I move (they are aware that I intend on moving for on or around Oct. 15, 2017)"
- Residential Tenancy Agreement dated September 26, 2018: Tenancy is starting October 15, 2017 and ending June 30, 2018. Security deposit of $500 and $300 pet deposit required by Oct. 1, 2017. Monthly rent is $1600.
- A moving quote by company Z dated September 28, 2017 for $1329.30.
- A bank printout dated September 12, 2017 indicating a credit of $561 from EI Canada and a credit of $2000 from an interact e-transfer. On this the appellant writes: "Proof of EI and $ from mom."] "I haven't paid rent or damage deposit yet."
- Monthly Report dated October 3, 2017: The appellant reported the following income received in the month of September 2017:
  - $2000 gift from mom
  - $527.06 employment income
  - $561 EI
  - $1200 child tax support
  - $1176.66 child benefits

  On her report she writes: "My mom gave me $2000 to help with daycare/childcare expenses, visa payment etc. My EI medical benefits have all been used and I do not qualify for regular EI benefits at this time."
  The ministry noted that all of this income is exempt from disability assistance except for the EI which will be deducted from her November assistance.

In her self-report the appellant writes that from her current location she cannot manage the long commute to many schools in the district. A move would enable her to work anywhere in the district. Childcare costs and commuting costs are higher at her current location due to her 3+ hour longer commute. There is a woman who can watch the children in her current home. When she works in the district she has to pay 3 extra hours of child care. The longer the commute the more her health is in jeopardy as she is still recovering from last year's collision with a deer. Her EI has been terminated. Her mother "lent/gave" her money to help with child care costs "this month" but is not able to give her money on a continuing basis or to fund her move, and the appellant has no other resources available. She has tried many times to get such a career opportunity in her current community.

In her Notice of Appeal dated October 13, 2017 the appellant states she disagrees with the ministry's decision.

The appellant's advocate provided a submission dated November 10, 2017: It mainly included argument but also some new information and documents:

- She works for a school district that is located 110 km from her current residence and commutes a minimum distance of 220 km to attend whichever school she has been assigned to.
- She must ensure that her dependents are in child care for up to 10 hours per workday.
- She has tried to find work with her local school district but was not successful.
- She has no family members or close friends who can retrieve the children from daycare.
- The bulk of moneys received as a gift from the appellant's mother represent payments for rent, utilities and security deposits

In a letter dated April 6, 2017, the appellant's doctor states that she sustained neck, back and hip injuries caused by a collision with a deer "when she was commuting to work earlier this year…Specifically prolonged sitting, for example at deskwork, aggravates the spinal pain".

In a letter dated September 1, 2017 the same doctor states that the appellant has not made a full recovery from her accident. He recommends "avoiding heavy lifting".

3 receipts, all dated Oct 14, 2017:

1) Received from a person other than the appellant for $918.63 for half month's rent (Oct.17), plus utilities to end of year. Signed illegibly (not appellant's signature).
2) Received from the appellant for $300 for pet deposit – signature as above.
3) Received from the appellant for $500 for damage deposit – signature as above.

A 1-page printout, allegedly from a ministry policy and procedures manual, identifies some of the situations under which a moving supplement can be provided and reads: "Recipients must obtain a minimum of two estimates from licensed cartage firms to move their belongings or the cost of a rental truck if the recipients are willing and able to move their belongings themselves."

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits most new information presented by the advocate as it corroborates information that was before the ministry at reconsideration and provides details on the appellant's living circumstances, her work situation, and health issues related to her accident, and is therefore in support of the evidence that was before the ministry at reconsideration.

The panel does not admit information that the bulk of moneys given as a gift from the appellant's mother represents payments for rent, utilities and security deposits as this information was not before the ministry at reconsideration. The panel notes that the advocate's statement is inconsistent with the appellant's statement that her mother gave her $2000 to help with daycare/childcare expenses and visa payments.

In addition, the panel does not admit receipt 1) as there was no information of a $918.63 payment and of the payee's identity before the ministry at reconsideration.

The panel notes that the ministry did not speak to admissibility of new information.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry reconsideration decision denying the appellant's request for a moving supplement because the appellant did not meet the eligibility criteria under section 55(2), 55(3)(a) or 55(4)(a) of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence; specifically, did the ministry reasonably determine that the appellant

- did not move because she is not working but has arranged confirmed employment that will significantly promote the financial independence of her family unit and she is required to move to begin that employment;
- did not move to another province or country;
- did not move because her accommodation was being sold, demolished or condemned;
- did not move to another area of BC to avoid an imminent threat to the physical safety of any member of her family unit;
- did not move because her family unit's shelter costs would be significantly reduced as a result of the move;
- has not demonstrated that there are no resources available to cover her moving costs;
- is not requesting the least expensive appropriate mode of moving.

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.

In its decision the panel looks at each applicable section of the legislation as it pertains to the appellant's circumstances:

Not working and moving to confirmed employment – section 55(2)(a)

Pursuant to section 55(2)(a) the ministry may provide a recipient with a moving supplement for moving costs if she is not working but has arranged confirmed employment anywhere in Canada that would significantly promote her financial independence.

The appellant argues that moving to confirmed employment with the school district will significantly promote the financial independence of her family unit in accordance with section 55(2) of the EAPWDR: As an on-call teacher she is now able to apply for full time positions as an internal applicant. In addition, on-call teachers who are able to work anywhere in the district get work every week day. As a result she qualifies for benefit packages and a pension plan and gains seniority. If she does not move to the district her availability will remain greatly reduced because she cannot manage the commute to many schools from her current residence, whereas her move to the new location will enable her to work anywhere in the district. After her move her child care and commuting costs will come down significantly because her commute will be significantly shorter.

While the ministry acknowledged that the appellant may be available for more on-call-work if she was residing within the school district the ministry found that the appellant was not required to move to the school district to start her employment as she was already working there at the time of her request. The ministry acknowledged further that while the appellant is currently working for the school district while residing outside of the district she has since realized some locations are not possible while commuting. Although commuting is difficult and limits some opportunity for work at specific schools, the ministry is not satisfied that the appellant is required to move to a new location to begin employment with the school district in accordance with section 55(2)(a) of the EAPWDR.

While the panel finds that there is some evidence that the appellant's move may enable her to work more hours in the district which may promote her financial independence, it also finds that section 55(2)(a) cannot apply in the appellant's circumstances because she was not without work before she moved but had already begun employment with the district while she was residing at her previous address. Thus the panel finds that the ministry reasonably denied the appellant a moving supplement under section 55(2)(a).

Improved living condition – section 55(2)(b)

Pursuant to section 55(2)(b) the ministry may provide moving costs to another province or country, if the appellant is required to move to improve her living conditions.

The appellant argues that a move would improve her living conditions significantly: her career and financial prospects would improve and create stability for her family while costs for day care and commute would decrease. Create stability for her family…In addition, a reduced commute would improve her health as she would heal better without having to sit in the car for hours.

It is the ministry's position that while the appellant's circumstances may be improved by moving she is not moving to another province or country as required by section 55(2)(b) of the regulation.

While there is evidence that the appellant's quality of life may improve after her move, section 55(2)(b) does not apply in her case because the appellant did not move to another province or country. Consequently, the panel finds that the ministry reasonably determined that the appellant was not eligible for a moving supplement under section 55(2)(b).

Accommodation sold, demolished or condemned – section 55(2)(c)

Section 55(2)(c) holds that the ministry may provide moving costs within a municipality or to an adjacent municipality because the appellant's accommodation is being sold, demolished or condemned.

The ministry finds no evidence to support that the appellant is required to move because her accommodations have been sold, demolished or condemned.

The panel finds that the ministry reasonably denied the appellant a moving supplement under section 55(2)(c) as there is no evidence the appellant is moving because her accommodation is being sold, demolished or condemned.

Significantly reduced shelter costs – section 55(2)(d)

According to section 55(2)(d) the ministry may provide moving costs within a municipality or to an adjacent

municipality if the appellant's shelter costs would be significantly reduced.

The ministry found that the appellant's shelter costs would increase as a result of her move.

The panel finds that as there is evidence that the appellant's shelter costs will increase after her move the ministry reasonably denied the appellant a moving supplement under section 55(2)(d).

Imminent threat to physical safety – section 55(2)(e)

Pursuant to section 55(2)(e) the ministry may provide moving costs to another area in British Columbia to avoid an imminent threat to the physical safety of a member of the appellant's family unit..

The appellant argues that the longer her commute the more her health is in jeopardy as she still has not recovered from her collision with a deer. Her advocate argues that nature and stress of the commute present an imminent threat to her and/or her children as she has no family members or close friends who can retrieve the children from daycare and, if the appellant is unable to call upon anyone for assistance if she is delayed returning home there is a risk to health and safety of her children. Her advocate submits further that forcing the appellant to use child support and benefits to cover moving costs is inappropriate and leaves the family unit exposed to hardship and/or could place the children in imminent danger.

It is the ministry's position that there is no evidence that the appellant is required to move to avoid imminent danger to the physical safety of the family unit.

The panel finds that section 55(2)(e) does not apply in the appellant's circumstances for the following reason: While the appellant argues that her health is in jeopardy because of long commutes, and while her advocate argues that forcing the appellant to use child support and benefits to cover moving costs leaves the family exposed to hardship and/or could place the children in imminent danger, the panel finds that there is insufficient evidence to establish that a move to another area of British Columbia is necessary to avoid an imminent threat to physical safety of any person in the family unit. Consequently, the panel finds that the ministry reasonably denied the appellant a moving supplement pursuant to section 55(2)(e).

No resources available – section 55(3)(a)

Section 55(3)(a) holds that an appellant is only eligible for a moving supplement if there are no resources available to the appellant to cover the costs of the move.

The appellant argues that she has no resources available to cover the cost of her move because her EI has been terminated, and, while her mother "lent/gave" her money to help with child care costs and visa payments she is not able to fund her move. On appeal the appellant's advocate argues that the appellant's child support and child benefits when split per child total $1188.33 each, from which food, utilities, car insurance, gas for transportation, clothing, daycare, and preschool costs would come. The advocate argues further that taking the child support and benefits away from the children is inappropriate and would leave the family unit exposed to hardship and/or could place the children in imminent danger.

The ministry finds that, as the appellant received a loan from her mother and was in receipt of EI, she had other resources to pay for her move. The ministry also noted that in September the appellant received $4903.79 from various sources that are exempt from disability assistance. Although she has some child care costs she has not demonstrated why she is unable to use these funds to help pay for her move. As a result the ministry is not

satisfied the appellant has no resources in accordance with section 55(3)(a) of the EAPWDR.

The panel finds that there is insufficient evidence that there are no resources available to the appellant to cover the cost of her move: While there is evidence that the appellant has child care costs, she has not demonstrated why she was unable to use some of her $4903.79 exempted funds to pay for her move. Thus the panel finds that the ministry was reasonable in denying the appellant a moving supplement in accordance with section 55(3)(a).

Least expensive appropriate mode of moving or transportation – section 55(4)(a)

Section 55(4)(a) sets out that a moving supplement may be provided only to assist with the cost of the least expensive appropriate mode of moving or transportation.

The appellant's advocate argues that the BC Employment and Assistance manual requires a minimum of 2 estimates from licensed cartage firms which the appellant has provided; there is no requirement noted in the manual to procure a U-Haul estimate. The appellant's advocate argues further that because of her previous MVA the appellant is not able to move with the help of a rented moving truck as she is recovering from injuries and not able to do any heavy lifting.

The ministry finds that the appellant has not provided any information to explain why she is unable to rent U-Haul to move her belongings. As this is typically the least expensive option, the minister is not satisfied her request for a moving supplement is for the least expensive and most appropriate mode of moving as required by section 55(4)(a) of the EAPWDR.

The panel finds that the ministry was unreasonable when it determined that the appellant's request for moving supplement was not for the least expensive and most appropriate mode of moving as required by section 55(4)(a). While the ministry found that the appellant has not explained why she is unable to rent a U-Haul truck for her move the panel finds that there is sufficient evidence that a rental truck is not an appropriate mode of moving or transportation in the appellant's circumstances: her doctor confirms that the appellant has not made a full recovery from her accident and he recommends avoiding heavy lifting. The panel notes that the appellant provided quotes from 3 different moving companies. In addition, the panel notes that ministry policy requires that an applicant be both able and willing to move their belongings by themselves before it will restrict moving costs to the cost of renting a truck and completing the move without a licensed cartage firm.

Conclusion

For these reasons the panel finds that the ministry's decision to deny the appellant a moving supplement was a reasonable application of the legislation in the circumstances of the appellant. The ministry's decision is confirmed