PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") March 23, 2018 Reconsideration Decision denying the Appellant's request for a moving supplement because the family unit did not meet the eligibility criteria under section 55(2) and 55(3) of the Employment and Assistance for Persons with Disabilities Regulation.

The Ministry found that the Appellant:

- did not move anywhere in Canada because a member of the family unit is not working but has arranged confirmed employment that will significantly promote the financial independence of the family unit and the family unit is required to move so that a member of the family unit can begin that employment;
- did not move to another province or country to improve the family unit's living circumstances;
- did not move within the municipality or unincorporated area to an adjacent municipality of unincorporated area because the family unit's accommodation was being sold, demolished or condemned;
- did not move to another area of British Columbia (BC) to avoid an imminent threat to the physical safety of a member of the family unit;
- did not move within the municipality or unincorporated area to an adjacent municipality of unincorporated area because the family unit's shelter costs would be significantly reduced as a result of the move; and
- has not demonstrated that there are no resources available to cover the moving costs.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 55(1), 55(2) and 55(3).

PART E – SUMMARY OF FACTS

The Appellant is currently receiving disability assistance together with her spouse (the Spouse) as a couple (the Family Unit). Information before the Ministry at reconsideration included the following:

- From Ministry records:
  - A monthly report dated February 15, 2018 showing that in January 2018 the Family Unit received:
    - $1,500 in other income from a family trust fund for the Appellant;
    - $1,200 in employment income for the Spouse; and
    - $19,200 in other income from an "ICBC settlement" for the Spouse;
  - A letter from the Spouse dated February 15, 2018 requesting a moving supplement to cover the cost of a move from one community in BC (Community X) to another non-adjacent community in BC (Community Y);
  - A letter from the Spouse's employer (the Employer) dated February 15, 2018 confirming that the Spouse would be employed in a particular position on a part-time basis beginning on March 1, 2018, leading to full-time employment in 3 months;
  - A message sent to the Appellant from the Ministry dated February 16, 2018 via the Ministry's online portal indicating that the Family Unit had "been found eligible for a moving supplement" but was required to submit to the Ministry at least two separate moving quotes for the cost of the move;
  - Quotes from two moving companies for the cost of the move as follows:
    - February 20, 2018 quote from one moving company (Company A) in the amount of $3,950 plus GST; and
    - February 19, 2018 quote from a different moving company (Company B) in the amount of $4,084 plus GST;
  - A written summary of a February 22, 2018 conversation between a Ministry worker and the Spouse in which the Spouse stated that:
    - the Family Unit had been living in Community Y for a year (i.e. since February 2017);
    - the Spouse had been working on a part-time basis for the Employer since November 2017;
    - the Spouse's part-time income from the Employer since November 2017 had ranged between $600 and $1,200 per month and that he also earned additional income of an unspecified amount "through his personal business";
    - rent at Community X was $600 per month and was $2,000 per month in Community Y;
  - A March 23, 2018 review of the Appellant's file by the Ministry found that the Family Unit received non-local transportation supplements as follows:
    - 15 nights of accommodation for September 2017;
    - 31 nights of accommodation for October 2017;
    - 30 nights of accommodation for November 2017; and
    - 20 nights of accommodation for December 2017;
  - A written summary of two conversations between a Ministry worker and the Family Unit's Community X landlord on February 27 and 28, 2018, indicating that the Community X landlord confirmed that the Family Unit had paid rent for each of the 5 preceding months but that the landlord did not think that the Family Unit was living there for the entire period over that timeframe; and
  - A written summary of an undated conversation between a Ministry worker and the Employer who confirmed that the Spouse began working part-time (3 to 4 days per week) on September 1, 2017, and that, while it had been anticipated that he would begin full time work at a later date, he had been laid-off on March 8, 2018 due to a shortage of work.

- An undated Request for Reconsideration signed by the Spouse indicating that he was requesting a moving supplement to move from Community Y to Community X (later corrected to confirm that the request covered a move from Community X to Community Y) which was approved by the Ministry on February 16, 2018 and denied one day before the move on February 22, 2018. The Spouse also stated that he had provided the Ministry with two moving quotes as requested. He said that the reasons for the move were that:
  - his medical condition is getting worse and he needed to be closer to health care;
  - because of the move he would no longer require non-local medical transportation costs totalling "close to $4,500 per month"; and
  - he had an opportunity to start a new full-time position at a place where he had been working part-time.

Additional Information Submitted after Reconsideration

In the Notice of Appeal (NOA) dated April 4, 2018, the Spouse, writing on behalf of the Appellant, stated that the Family Unit had initially met the criteria necessary to qualify for the moving supplement but that "when it got too expensive" the Ministry decided to deny the moving supplement on the day before the move.

Evidence Presented at the Hearing

The Spouse, as a member of the Family Unit, attended the hearing on behalf of himself and the Appellant.

At the hearing, the Spouse stated that he and the Appellant had a need for accommodation in Community Y because he had secured a part-time job in that community in the fall of 2017 and that the Ministry was incurring costs of approximately $4,500 per month in non-local transportation supplements to cover the cost of renting a furnished apartment in Community Y on his behalf so that he could attend medical treatment appointments. As a result, a permanent move to the community would result in reduced costs to the Ministry and facilitate his ability to work full-time in that community. He explained that his job was part-time, but when he and the Appellant decided to make the move in mid-February 2018, he had expectations that his part time job would continue until the end of May 2018 and then become a full-time job. He was laid off on March 8, 2018, however, due to a shortage of work. The Spouse also confirmed that his "personal business" generated income of up to $60 per month, but that he did not earn personal income every month. The Spouse also stated that the ICBC Settlement income of $19,200 was a one-time payment received on January 26, 2018, all except $300 of which had been used by the following day to settle debts, including outstanding balances on his credit card, and a holiday for the Family Unit. The Spouse explained that while the Family Unit had been living most of the time since September 2017 in Community Y, he did return to Community X from time to time, and that the Appellant had also split her time between the two locations. Therefore the Family Unit had continued to pay rent on the accommodation in Community X up until they had permanently moved to the new location in late February 2018. He also explained that in the months leading up to the move in February 2018, he had been falling 2 or 3 times a week at his home in Community X because it had not been modified to accommodate his assistive device, and as a result he has now determined that there might have been an imminent threat to his physical safety. The Spouse stated that he had arranged for the move in advance using Company A, that their possessions were moved on February 25, 2018, and that they had paid for the move using the Spouse's credit card. Prior to the move, they had kept some of their possessions in a storage facility in Community X and some in their home in Community X, but they had not moved anything to Community Y before the permanent move took place because they work in Community Y was not confirmed employment. The Spouse also argued that the Ministry had approved the moving supplement but then reversed the decision to approve it "because it was too expensive".

At the hearing, the Ministry relied on its Reconsideration Decision and stated that the Ministry's Health Assistance Branch takes care of clients' health care cost needs, including arranging for non-local transportation supplements. The Ministry also stated that there are specified asset exemptions in the legislation, but that the Ministry was considered "payer of last resort", and as such, wherever possible, clients are expected to rely on any liquid assets, credit facilities or loans and gifts from family and friends to cover unexpected expenses.

Admissibility of Additional Information

Section 22(4) of the Employment and Assistance Act (EAA) provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the Ministry when the decision being appealed was made and "oral and written testimony in support of the information and records" before the Ministry when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the Ministry at reconsideration. These limitations reflect the jurisdiction of a panel established under section 24 of the EAA, which is to determine whether the Ministry's reconsideration decision is reasonably supported by the evidence or a reasonable application of the enactment in the circumstances of an appellant.

The Panel considered the information in the NOA to be argument. Regarding the verbal evidence presented by the Spouse at the hearing to the effect that he was falling two to three times a week at the property in Community X before the move because it was not accessible to him when using his assistive device, that, as a result, he might have to move to avoid an imminent threat to his physical safety, and as such he met the requirements of EAPWDR Section 55(2)(e), the Panel notes that this evidence was not presented to the Ministry at or before reconsideration and as such did not represent information and records or oral testimony in support of the information and records before the Ministry when the decision being appealed was made. Therefore the Panel finds that this verbal evidence is not admissible pursuant to Section 22(4) of the EAA. Regarding the verbal evidence presented by the Spouse at the hearing that the move had taken place on February 25, 2018 and had been paid for using the Spouse's credit card, the Panel also notes that this evidence was not presented to the Ministry at or before reconsideration. Therefore the Panel finds that this verbal evidence is also not admissible pursuant to Section 22(4) of the EAA.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the Ministry's Reconsideration Decision denying the Appellant's request for a moving supplement because the Family Unit did not meet the eligibility criteria under section 55(2) and 55(3) of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence.

Legislation

The following section of the EAPWDR applies to this appeal:

Supplements for moving … costs

55 (1) In this section:

… **"moving cost"** means the cost of moving a family unit and its personal effects 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 …

(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.

* * * *

In its decision, the Panel looks at each applicable section of the legislation as it pertains to the Family Unit's circumstances:

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

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

The Ministry's position is that the balance of evidence indicates that the Spouse was already working when he made arrangements to continue working with the same employer and that the move was not required to begin employment. As a result, the Ministry found that the requirements of EAPWDR Section 55(2)(a) had not been met. The Appellant argues that the employment was not with the same employer because the company for which he had been working had been sold, and, as a result, that he was starting a new job with a new company.

The Panel notes that the Spouse stated at the hearing that he began doing some "casual (paid) work" for a company in Community Y sometime in September 2017, and that he was a regular part-time employee of that company starting in November 2017, which at the time was expected to ultimately result in a full-time position with the company. Furthermore, the Spouse stated that the company was sold at the end of February, 2018, at which time he was told that he could begin working for the same company under new ownership beginning on March 1, 2018, and that the work would evolve into a full-time position in three months. Despite these assurances, the Spouse stated that he had been laid off from his part-time position on March 8, 2018, approximately two weeks after the move, due to a shortage of work. The Panel finds that, based on the information available at reconsideration, the Ministry reasonably determined that the Spouse was already working in Community Y when the moving supplement was requested and that the move was not required to start new employment. As a result the Panel finds that the Ministry reasonably determined that the requirements of EAPWDR Section 55(2)(a) had not been met – i.e. the requirement that prior to the move a member of the Family Unit had to be "*not working (and had) arranged confirmed employment* anywhere in Canada".

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 disability assistance recipient is required to move to improve his or her living circumstances.

The Ministry's position is that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving to another province or country. The Appellant does not argue that this criterion applies.

The Panel finds that the Ministry reasonably concluded that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving to another province or country. The Panel also notes that there is insufficient evidence to demonstrate that either member of the Family Unit is required to move to improve his or her living circumstances.

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

Section 55(2)(c) states that the Ministry may provide a disability assistance recipient with a moving supplement to cover the cost of moving within a municipality or to an adjacent municipality because the Family Unit's accommodation is being sold, demolished or condemned.

The Ministry's position is that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving within a municipality or to an adjacent municipality. The Appellant does not argue that this criterion applies.

The Panel finds that the Ministry reasonably concluded that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving within a municipality or to an adjacent municipality. The Panel also notes that there is no evidence that the Family Unit's 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 a disability assistance recipient with a moving supplement to cover moving costs within a municipality or to an adjacent municipality if the Family Unit's shelter costs would be significantly reduced.

As stated above, the Ministry's position is that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving within a municipality or to an adjacent municipality and the Appellant does not argue that this criterion applies.

As stated above, the Panel finds that the Ministry reasonably concluded that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement because the Family Unit is moving within a municipality or to an adjacent municipality. In addition, the Panel notes that the evidence shows that the Family Unit's shelter costs would increase as a result of the move.

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

Pursuant to section 55(2)(e), the Ministry may provide a disability assistance recipient with a moving supplement to cover moving costs to another area in British Columbia to avoid an imminent threat to the physical safety of a member of the recipient's family unit.

The Ministry's position is that the Appellant has not provided any information demonstrating that the Family Unit needs a moving supplement to avoid an imminent threat to the physical safety of a member of the Family Unit.

As stated above, the Appellant's testimony at the hearing that there was imminent danger to his physical safety at his previous residence in Community X was not oral testimony in support of information and records before the Ministry when the decision being appealed was made. Therefore, the Panel finds that the Ministry reasonably determined at reconsideration that the Appellant had not provided any information demonstrating that the Family Unit needs a moving supplement to avoid an imminent threat to the physical safety of a member of the Family Unit.

No resources available and Ministry's prior approval – Section 55(3)(a) and (b)

Section 55(3) states that a disability assistance recipient is only eligible for a moving supplement if there are no resources available to the Family Unit to cover the costs of the move and if a recipient in the Family Unit receives approval from the Ministry before incurring the moving costs.

Regarding the requirement that there be no resources available to cover the moving costs, the Ministry's position is that, because the client is considered a payer of last resort, and because the Appellant's February 2018 monthly report showed that the Spouse had received total income of $20,400 (not including the Appellant's family trust income or other "self-employment income that he had not declared"), those resources might have been available to cover the Family Unit's moving costs. Regarding the requirement that the Family Unit receive approval from the Ministry before incurring the moving costs, the Ministry's position is that, while it is likely that the Family Unit incurred moving costs to move family and personal effects to move to Community Y in the fall of 2017, there was no evidence to establish that the Family Unit had incurred moving costs without the Ministry's prior approval. The Appellant's position is that, while he had been assured by the Ministry that his moving costs would be covered, approval was unreasonably delayed, and that he was formally denied the supplement the day before the move, which had had to be scheduled with the movers in advance. As a result he had been forced to pay for the move with his credit card.

Regarding the Ministry's determination that there was no evidence to establish that the Family Unit had incurred moving costs without the Ministry's prior approval, the Panel notes that the Spouse's oral evidence presented at the hearing regarding the timing and method of payment for the moving costs was not admissible evidence for the reasons provided above. Therefore the Panel finds that the Ministry reasonably concluded that, at the time of reconsideration, there was no evidence to establish that the Family Unit had incurred moving costs without the Ministry's prior approval. The Ministry further concluded that, despite there being insufficient evidence to determine whether the requirements of EAPWDR Section 55(3)(b) had been met, the Appellant would still not be eligible for the moving supplement because, in addition to an applicant meeting at least one of the criteria set out in Section 55(2), both of the criteria set out in EAPWDR Section 55(3) have to be met for a recipient to be eligible for a moving supplement. As the Panel has found that the Ministry reasonably determined that the Family Unit had the resources available to cover the cost of the move, the Panel finds that the Ministry reasonably determined that the Appellant was not eligible for a moving supplement pursuant to EAPWDR Section 55(3).

Conclusion

The Panel finds that the Ministry's overall conclusion that it could not provide approval to cover the Appellant's moving costs because not all of the eligibility requirements had been met was a reasonable application of the legislation and reasonably supported by the evidence. Therefore the Ministry's Reconsideration Decision is confirmed and the Appellant is not successful in her Appeal.