

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 28, 2018 which found that the appellant was not eligible for funeral costs pursuant to section 65 of the Employment and Assistance Regulation (EAR) because the ministry did not have enough information to establish that resources were not available to pay for the necessary funeral costs at the time they were payable.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation – section 65

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of reconsideration consists of:

1. The deceased's (the father) social insurance number.
2. 1-page personal assessment from the bank pertaining to the father.
3. Bank statement of the father dated from November 1, 2017 to January 2, 2018. The statement shows a number of deposits including transfers from another bank account.
4. The purchase agreement from the funeral home, dated January 6, 2018 and shows a total cost of \$3444.45
5. Two receipts from the funeral home dated January 6, 2018 for \$1500.45 and 1944.00.
6. Request for Reconsideration (RFR), signed and dated February 12, 2018 and stated in part the following:
 - The father and his spouse (the appellant's parents) are in the low-income category with a total income of \$22, 000 annually.
 - The funeral home refused to reverse the payment made for the funeral.
 - The transfer of the body and funeral arrangements had to be made quickly so there was no opportunity to obtain pre-approval of the costs.
 - The father's joint bank account did not hold enough funds to pay for the funeral so the appellant had to step in by paying for the funeral costs on her credit card.

Evidence on Appeal

The Notice of Appeal (NOA), signed and dated April 3, 2018 by the appellant, stated in part:

- There was no sufficient time to get pre-approval as her father passed away the morning of January 2, 2018 and his body had to be removed by noon on January 2, 2018.
- Her father had a joint bank account with his spouse and the appellant. The appellant had some income deposited into that account.

PART F – REASONS FOR PANEL DECISION

At issue is whether or not the ministry's decision, which determined that the appellant is ineligible for funeral costs because there was not enough information to establish that resources were not available to pay for funeral costs, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 65 of the EAR sets out the eligibility requirements which are at issue on this appeal as follows:

Burial or cremation supplements

65 (1) In this section:

"extraprovincial transportation", with respect to a person who dies in Canada but outside British Columbia, means transporting the deceased person's body within the province or territory in which death occurred for the purposes of providing a service described in paragraph (b) or (c) of the definition of "funeral costs";

"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;

"interprovincial transportation" means preparing the deceased person's body for transport to British Columbia and transporting the body to British Columbia;

"intraprovincial transportation" means transporting a deceased person's body within British Columbia for the purposes of providing a service described in paragraph (b) or (c) of the definition of "funeral costs";

"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.
 - (c) Repealed. [B.C. Reg. 63/2010, s. 3 (c).]
- (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.

Panel's Decision

Section 65 of the EAR states that 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.

The appellant argued that her parents are low income and did not have the funds to cover the costs of the funeral. She argued that her father had a joint bank account with his spouse and her and that some of her income was deposited to that account.

The ministry noted that the appellant's parents had a joint bank account so her father's spouse had access to all resources that may have been available and as the spouse, she would have been responsible for burial costs. The ministry argued that though a bank profile was provided for the father, the appellant did not provide a bank profile for her mother (the spouse). The ministry argued that though the bank statement provided demonstrates that sufficient funds were not available to cover the costs of the burial, there are regular transfers in and out of the account from other accounts for which statements were not provided. Finally the ministry argued that it is unclear if the estate applied for or may have been eligible for a Canada Pension Plan (CPP) death benefit. For these reasons, the ministry determined that the appellant is ineligible for burial/cremation costs pursuant to section 65 of the EAR because it has not been established that resources were not available to the responsible party (the spouse).

The panel notes that without a complete financial picture of the spouse, which includes whether or not CPP death benefits were accessed and information about the source of the money transfers that are regularly deposited to the spouse and deceased's bank account, it is difficult to conclude that that resources were not available to pay the necessary funeral costs. Though the appellant stated in the RFR that she is a joint holder of the bank account with her parents and in her NOA she stated that some of her income is deposited to the joint bank account, the appellant has not provided any supporting evidence.

Given the evidence as a whole, the panel finds that the ministry reasonably determined that the appellant is not eligible for burial/cremation costs pursuant to section 65 of the EAR because it has not been established that resources were not available to the responsible party (the spouse).

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for burial/cremation costs because the requirements of Section 65 of the EAR were not met, was reasonably supported by the evidence. The panel confirms the ministry's decision. The appellant is not successful on appeal.