

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "ministry") reconsideration decision of 31st January, 2019 (the "Reconsideration Decision"), which held that the appellant's application for a "moving supplement" for storage fees for the month of August 2018 was denied on the grounds that:

- (i) the appellant was eligible for a maximum of \$375.00, as "*shelter allowance*" whilst residing at a transition house during the month of August 2018;
- (ii) the "*storage fees*" applied for by the appellant as a moving supplement for the month of August 2018 did not meet the definition of "*moving cost*"; and
- (iii) even if the "*storage costs*" were considered an allowable "*shelter cost*", the maximum eligible "*shelter allowance*" of \$375.00 due to the appellant for the month of August 2018, went directly to a transition house to pay rent on behalf of the appellant for that month.

APPEAL NUMBER

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 1, 24, 55 -Schedule A

PART E – SUMMARY OF FACTS

The information and evidence before the ministry at reconsideration included the following:

1. A Shelter Information form dated 11th July 2018 signed by the Manager of a transition house, which states that the rent of a self-contained unit or room at the transition house for the appellant effective from 11th July 2018 was \$375.00 per month and that the appellant was responsible for “other costs” amounting to \$175.00 per month;
2. An Admittance and Discharge form signed by the appellant stating that the appellant was discharged from the said transition house on 31st August 2018; and
3. Three (3) payment receipts numbered 83231, 84118 and 85410 dated 28th November 2018 respectively in the amounts of \$205.80 for payment on 22nd May 2018, \$205.80 for payment on 26th June 2018, and \$190.95 for payment on 9th August 2018.

In addition to the information and evidence described above, the panel reviewed the following additional information and evidence:

Reconsideration Decision dated 31st January 2018:

Amongst other matters, the Reconsideration Decision states the following:

- The appellant is a sole recipient of disability assistance and his income assistance file was opened on 15th December 2017;
- On the date of the intake interview, the appellant was residing at a *special care facility*, and had just been discharged from a treatment centre on 11th December 2017;
- For the months of December 2017, the ministry provided (i) a comforts allowance to the appellant; (ii) paid \$208.80/month to a storage facility as shelter allowance; and (iii) paid per diems to the facility;
- For February through July 2018, the ministry provided the appellant a comfort allowance, paid \$205.80 per month to the storage facility as a shelter allowance, and paid per diems to the facility;
- On 10th July 2018, the appellant was discharged from the facility and moved into a *secondary/transitional housing facility*. At that time, the ministry (i) stopped paying the appellant's storage fees out of his available shelter allowance and (ii) started paying the maximum shelter allowance of \$375.00 for rent directly to the transition facility;
- For July 2018, the ministry paid \$375.00 to the appellant and provided a top-up for appellant's support;
- For August 2018, the ministry issued the appellant the full support and the shelter allowance of \$375.00 to the transitional housing;
- On 31st August 2018, the appellant moved to another *special care facility* and the ministry began paying (i) per diems to the facility and (ii) comfort allowances to the appellant;
- On 13th September 2018, the ministry denied the appellant's request dated 10th September 2018 for storage costs while the appellant was at a special care facility. However, an appeal tribunal determined on 8th November 2018 that the appellant was eligible for disability assistance to pay his actual shelter costs for storage while the appellant was at a *special care facility, which began on 31st August 2018*. Based on the appeal tribunal's decision, the ministry provided assistance with storage costs from 1st September 2018 for the period the appellant resided in the *special care facility*.
- The appellant was discharged from the latest *special care facility* on 3rd January 2019;

At reconsideration, after full review of the information provided, the ministry determined that the appellant's request for assistance with storage costs for the month of August 2018 was denied for the following reasons: (i) as the appellant was living in a transitional housing facility during the month of August 2018, he was eligible for

a maximum of \$375.00 for shelter costs for that month. The appellant was advised that the shelter allowance was sent directly to the transition housing facility on his behalf. Therefore, the appellant had been paid the maximum shelter allowance due to him for the month of August 2018.

The ministry also considered the appellant's request under the moving supplement criteria and determined that the appellant did not meet the eligibility criteria for a moving supplement for the following reasons:

Moving costs are defined as the costs of moving a family unit and its personal effects from one place to another. If the family unit in receipt of assistance has no resources to pay for moving costs and they receive the minister's prior approval before incurring those costs, a moving supplement may be provided to assist with one or more of the following:

- Moving costs required to move anywhere in Canada for confirmed employment if the employment would significantly promote the financial independence of the family unit
- Moving costs required to move to another province or country to improve living circumstances
- Moving costs required to move within or to an adjacent municipality to significantly reduced shelter costs or because the current accommodation is being sold, demolished or condemned
- Moving costs required to move to another area in BC to avoid an imminent threat to physical safety. Storage fees can be considered a moving cost and paid by the ministry when a family's possessions must be stored for a limited period of time. Clients are only eligible to have their storage locker fees paid if they are eligible for the supplement.
- Based on the information provided, the ministry is not satisfied that the appellant is eligible for the supplement. The appellant's items were already in storage at application in December 2017 and the appellant had moved another 3 times since then while the items remained in storage.
- Storage of appellant's items was not temporary, nor is there information provided that would confirm that the storage costs were required as part of the move into treatment to avoid an imminent threat the appellant's physical safety, or required to stay in storage when the appellant moved into transitional housing in August.

Additional Documentary Information

On 20th September 2019, the disputant submitted 36 pages of documents in support of his appeal. The documents included (i) the two (2) payment receipts for storage as described in Paragraph 3 of this Section –Summary of Facts, as well as an additional storage receipt (#84520) for payment on 6th July 2018; (ii) several medical reports about the medical conditions of the appellant, (iii) treatment of the appellant at a special care facility where he had resided, and (iv) correspondence between the appellant and representatives of the special care facility.

The ministry did not object to the additional documentary information being admitted as additional evidence under Section 22 (4) of EAA. Therefore, the panel reviewed the said material and determined that the additional documentary information submitted by the appellant was admissible evidence under Section 22 (4) of EAA, as it included information that was in support of the records and information before the ministry at reconsideration.

The panel, however, did not consider the additional documentary information relating to (i) the medical conditions of the appellant, (ii) his treatment at the special care facility, and (iii) the correspondence between the appellant and representatives of the special care facility, as such additional documentary information is not relevant to the issues the panel considered under this appeal.

Oral Evidence of the Appellant the Hearing

At the hearing of the appeal, the appellant provided oral evidence relating to his medical conditions and his treatment at the special care and transitional housing facilities where he had resided between 11th December and 31st of August 2018. The appellant also acknowledged and confirmed that:

1. he was at a *special care facility* between 11th December 2017 and the 11th July 2018;
2. he was at a *transition house* facility from 11th July 2018 to 31st August 2018, and the said transition house was in the same building as the *special care facility* at which he was a resident at until 11th July 2018;
3. he was admitted to *another special care facility* from 31st August 2018 and subsequently discharged on 3rd January 2019;
4. During the period between 11th December 2017 and 3rd January 2019, the appellant's personal belongings were not moved to another location. These items remained at the same storage location.

The panel determined that the oral evidence of the appellant at the hearing was admissible evidence under Section 22 (4) of EAA, as it was in support of the records and information before the ministry at reconsideration.

At the hearing, the ministry relied upon the Reconsideration Decision and argued that the appellant was entitled to \$375.00 for the month of August 2018 as "shelter allowance" as he was at a transition house and that the appellant's request for a moving supplement to pay for his storage costs for the month of August did not meet the criteria for a moving supplement as described in Section 55 (2) of EAPWDR.

Having reviewed all the evidence before it, the panel finds that:

1. the appellant was at a *special care facility* between 11th December 2017 and 11th July 2018;
2. the appellant entered a *transitional house* on 11th July 2018 and was discharged therefrom on 31st August 2018 to move to *another special care facility*; and
3. during the period between 11th December 2017 and 31st December 2018, the appellant's personal belongings were not moved to another location and remained at the same storage facility.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the Reconsideration Decision, which held that: (1) the appellant was ineligible for a moving supplement to pay for the appellant's storage fees for August 2018; (2) the storage fees claimed by the appellant were not "shelter cost" because they were not for rent for a place of residence nor were they any one of the utility costs listed in the EAPWDR Regulation; and (3) even if the storage fees were considered an allowable shelter cost, the appellant's maximum shelter allowance of \$375.00 for the month of August 2018 went directly to a transition house to pay rent on behalf of the appellant, was reasonably supported by evidence or was a reasonable application of applicable enactment in the circumstances of the appellant.

The relevant applicable legislation is as follows:

Part 1 — Interpretation

Definitions

(1) In this regulation:

"special care facility" means a facility that is a licensed community care facility under the *Community Care and Assisted Living Act* or a specialized adult residential care setting approved by the minister under subsection (3);

(3) For the purposes of the definition of "special care facility", the minister may approve as a specialized adult residential adult residential care setting a place that provides accommodation and care for adults and for which a licence under *Community Care and Assisted Living Act* is not required.

Amount of disability assistance

24 Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

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

- (a) moving a family unit and the family unit's personal effects from one place to another, and
- (b) storing the family unit's personal effects while the family unit is moving if the minister is satisfied that storing the personal effects is necessary to preserve the personal effects;

"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 anywhere in British Columbia because the family unit is being compelled to vacate the family unit's rented residential accommodation for any reason, including the following:

- (i) the accommodation is being sold;
- (ii) the accommodation is being demolished;
- (iii) the accommodation has been condemned;

(d) moving costs required to move anywhere in British Columbia if the family unit's shelter costs would be significantly reduced as a result of the move;

(e) moving costs required to move anywhere 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) subject to subsection (3.1), a recipient in the family unit receives the minister's approval before incurring those costs.

(3.1) A supplement may be provided even if the family unit did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist.

(4) A supplement may be provided under this section only to assist with

- (a) in the case of a supplement under subsection (2) (a) to (e), the least expensive appropriate moving costs, and
- (b) in the case of a supplement under subsection (2) (f) or (g), the least expensive appropriate transportation costs and the least expensive appropriate living costs.

Disability Assistance Rates

(section 24 (a))

Maximum amount of disability assistance before deduction of net income

1 (1) Subject to this section and sections 3 and 6 to 9 of this Schedule, the amount of disability assistance referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the monthly support allowance under section 2 of this Schedule for a family unit matching the family unit of the applicant or recipient, plus
- (b) the shelter allowance calculated under sections 4 and 5 of this Schedule.

(2) Despite subsection (1), disability assistance may not be provided in respect of a dependent child if support for that child is provided under section 8 (2) or 93 (1) (g) (ii) of the *Child, Family and Community Service Act*.

Monthly shelter allowance

4 (2) The monthly shelter allowance for a family unit to which section 14.2 of the Act does not apply is the smaller of

- (a) the family unit's actual shelter costs, and
- (b) the maximum set out in the following table for the applicable family size:

Item	Column 1 Family Unit Size	Column 2 Maximum Monthly Shelter
1	1 person	\$375

People receiving special care

8 (1) For a person with disabilities who receives accommodation and care in a special care facility (other than a special care facility described in subsection (3)) or a private hospital or who is admitted to a hospital because he or she requires extended care, the amount referred to in section 24 (a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the actual cost, if any, to the applicant or recipient of the accommodation and care at the rate approved by the minister for the type of facility, plus
- (b) a comforts allowance of \$222 for each person for each calendar month.
- (c) Repealed. [B.C. Reg. 193/2017, s. 12.]

(2) If the special care facility under subsection (1) is an alcohol or drug treatment centre, the minister may, in addition, pay either or both of the following while the applicant or recipient is in the alcohol or drug treatment centre:

- (a) actual shelter costs for the applicant's or recipient's usual place of residence up to the amount

under section 4 for a family unit matching the applicant's or recipient's family unit;

(b) a monthly support allowance for the applicant's or recipient's family unit, equal to the amount calculated under sections 2 and 3 of this Schedule minus the portion of that allowance that would be provided on account of the applicant or recipient.

(3) For a person with disabilities who receives accommodation and care in a special care facility operated by a service provider as defined in section 1 of the *Community Living Authority Act*, the amount referred to in section 24

(a) [amount of disability assistance] of this regulation is the sum of

(a) the support allowance that is applicable under sections 2 and 3 of this Schedule for a family unit matching the applicant's or recipient's family unit, plus

(b) the maximum shelter allowance that is applicable under section 4 of this Schedule for a family unit matching the applicant's or recipient's family unit.

People in emergency shelters and transition houses

9 For a family unit receiving accommodation and care in an emergency shelter or transition house, the amount referred to in section 24 (a) [amount of disability assistance] of this regulation is

(a) the actual cost, if any, to the family unit of the accommodation and care at the rate approved by the minister for the type of emergency shelter or transition house, plus

(b) the support allowance calculated under sections 2 and 3 of this Schedule for a family unit matching the family unit of the applicant or recipient.

Panel's Decision

The panel considered the following facts relevant to the two issues described below and applicable legislation to the circumstances of the appellant:

Issue No 1 – Eligible Amount of “Shelter Allowance” at a Transition House

The panel noted, and have made a finding of fact to the effect that, between 11th July and 31st August 2018, the appellant was a resident at a transitional housing facility.

The panel further noted that Section 4 of EAPWDR provides that the *monthly shelter allowance* for a family unit to which Section 14. 2 of the EAPWD Act does not apply is the smaller of the family unit's actual shelter costs, and the maximum set out in the table applicable for the family size. The applicable table provides that the maximum monthly shelter allowance for a family unit size of 1 person is \$375.00.

Section 14.2 provides that:

(1) No disability assistance, hardship assistance or supplement may be paid to or for a family unit on account of an applicant or recipient for whom a warrant for arrest has been issued under

(a) the *Immigration and Refugee Protection Act* (Canada), or

(b) any other enactment of Canada in relation to an indictable offence, and

on whom the warrant has not been executed.

(2) Despite section 6 and subsection (1) of this section, and subject to the regulations, the minister may provide

(a) disability assistance, hardship assistance or a supplement to or for the family unit on account of the person who is subject to the warrant, or

(b) a supplement to

(i) the person who is the subject of the warrant, for the purpose of the person returning to the jurisdiction that issued the warrant, or

(ii) the family unit, for the purpose of the family unit returning to the jurisdiction that issued the warrant.

(3) If a family unit includes a person described in subsection (1), the person's income and assets must be included in the income and assets of the family unit for the purposes of determining whether the family unit is eligible for disability assistance, hardship assistance or a supplement, except as otherwise provided in the regulations.

(4) In this section, "indictable offence" includes an offence that is deemed under section 34 (1) of the *Interpretation Act* (Canada) to be an indictable offence.

Having regard to the provisions of Section 14.2 of the EAPWD Act, referred to in Section 4 of EAPWDR, the panel finds that the appellant is not in the category of persons described in that Section.

The panel also reviewed the provisions of Section 9(a) of the EAPWDR, which provides that for a family unit receiving accommodation and care in an emergency shelter or *transition house*, the amount referred to in Section 24 (a) [*amount of disability assistance*] of this regulation is:

(a) the actual cost, if any, to the family unit of the accommodation and care at the rate approved by the minister for the type of emergency shelter or transition house, plus

(b) the support allowance calculated under sections 2 and 3 of this Schedule for a family unit matching the family unit of the applicant or recipient.

Having regard to all of the foregoing applicable legislative enactments, the panel finds that the ministry reasonably determined that the appellant was eligible to receive a maximum shelter allowance of \$375.00 for the month of August 2018.

Issue No 2 - Moving Supplement

The panel noted that the ministry considered the appellant's request under the moving supplement criteria described in Section 55(1) of EAPWDR, as costs of moving a family unit and its personal effects from one place to another". Within that context, the panel noted that Section 55(2) of EAPWDR provides that the minister may provide a supplement to 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 anywhere in British Columbia because the family unit is being compelled to vacate the family unit's rented residential accommodation for any reason, including the following:
 - (i) the accommodation is being sold;
 - (ii) the accommodation is being demolished;
 - (iii) the accommodation has been condemned;
- (d) moving costs required to move anywhere in British Columbia if the family unit's shelter costs would be significantly reduced as a result of the move;
- (e) moving costs required to move anywhere 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) subject to subsection (3.1), a recipient in the family unit receives the minister's approval before incurring those costs.

(3.1) A supplement may be provided even if the family unit did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist.

The panel has noted, and have made a finding of fact to the effect that, during the period between 11th December 2017 and 31st December 2018, the appellant's personal belongings were not moved to another location and remained at the same storage facility. The panel also noted that there was no information before the ministry at reconsideration that would confirm that the storage costs were required as part of the move into treatment to avoid an imminent threat to the appellant's physical safety, or were required to stay in storage when the appellant moved into a transitional house in August.

Having regard to all the evidence before it, and noting that the appellant's request for a moving supplement did not fall into any of the criteria described in Section 55(2) of EAPWDR, the panel finds that the ministry reasonably determined that the appellant had not satisfied his eligibility for a moving supplement.

For the reasons described above, the panel finds the ministry's Reconsideration Decision was reasonably supported by evidence and a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the Reconsideration Decision.

APPEAL NUMBER

PART G - ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H - SIGNATURES

PRINT NAME

TAJ DIN MITHA

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/25/09

PRINT NAME

SANDRA CHAN

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/25/09

PRINT NAME

ROBERT McDOWELL

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/25/09