

APPEAL NUMBER  
2021-0149

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated July 8, 2021 which held that the appellant was not eligible for a supplement for necessary funeral costs.

The appellant had requested a supplement because he had to pay the funeral costs after the death of his father (referred to as “the deceased”).

The ministry determined that it was not satisfied that there were no resources available from the estate of the deceased or the spouse of the deceased to pay for the necessary funeral costs.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance Regulation (EAR), s. 65 (Burial or cremation supplements)

## **PART E – SUMMARY OF FACTS**

The information before the ministry at reconsideration included:

1. the deceased died in British Columbia on June █, 2021;
2. the deceased's spouse was still alive;
3. the deceased's funeral occurred on June █, 2021; and
4. The appellant paid the costs of the funeral.

In the Notice of Appeal, the appellant stated that the reason for appeal was that he "did not [receive] papers in time to apply".

At the hearing, the appellant provided additional information including that the deceased had a stroke in January 2019, that the deceased had been receiving government assistance which the appellant understood was provided directly to the care home where the deceased was residing at the time of his death, that the appellant had a joint bank account with the deceased at the time the deceased died, and that the deceased's spouse is still alive but that she is in poor health and the appellant does not have direct access to her financial information. The appellant stated that his sister was the appellant's father's sponsor when he immigrated to Canada.

The panel determined that it was appropriate under section 22(4) of the *Employment and Assistance Act* to admit this additional evidence because the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

At the hearing, the ministry confirmed that it was relying upon the information in the reconsideration decision. The ministry also stated that it did not have any direct access to the financial records of the deceased or the deceased's spouse.

## **PART F – REASONS FOR PANEL DECISION**

### ***Introduction***

The issue at appeal is whether the reconsideration decision dated July 8, 2021 which held that the appellant was not eligible for a supplement for necessary funeral costs was reasonably supported by the evidence or a reasonable application of the enactment in the appellant's circumstance.

### ***Summary of The Relevant Legislation***

Section 65 of the EAR is included in Division 4 – Supplements – Persons who Demonstrate Eligibility.

Section 65 permits the minister to provide a supplement for funeral costs (defined as the services of a funeral provider and the costs of cremation or burial of a deceased person's body or remains) if the following conditions are met:

1. the person died in British Columbia;
2. the burial or cremation of that person took place or will take place in British Columbia;
3. the estate of the person does not have the resources to pay the funeral costs;
4. the spouse of the person does not have the resources to pay the funeral costs; and
5. if the person was sponsored to immigrate to Canada, the sponsor or co-sponsor (if the undertaking is still in effect) do not have the resources to pay the funeral costs.

### ***The Appellant's Position***

The appellant provided the ministry with the Certificate of Death for the deceased showing that he died in British Columbia and a Funeral Services Agreement showing the deceased was cremated in British Columbia.

The appellant also provided the ministry with a receipt demonstrating that the funeral costs had been billed to him and paid by credit card and stated that it was his credit card that was used to pay the funeral costs.

The appellant did not provide banking statements and banking profiles for the deceased or the spouse of the deceased as requested by the ministry and stated that was because the deceased "had no income" and that the spouse of the deceased was too ill to provide financial documents.

The appellant stated that he had provided all the documents requested and that the supplement should be provided to him.

### ***The Ministry's Position***

The ministry confirmed that the financial resources available to the appellant was not relevant because he was not a "responsible person" as defined in section 65 of the EAR.

The ministry emphasized that on June 15, 2021, the ministry requested that the appellant provide the bank statements and banking profiles for a 60-day period for both the deceased and the spouse of the deceased. The ministry's position was that because that information was not provided, and the ministry has no ability to get that information directly, that it was not satisfied that neither the estate of the deceased or the spouse of the deceased had the resources available to pay the funeral costs.

The ministry noted that the appellant could re-apply for the supplement under section 65 of the EAR once he had that information.

### ***The Panel's Decision***

The panel's review of section 65 of the EAR indicates that the ministry is only authorized to provide a supplement for funeral costs if neither the estate of the deceased nor a responsible person (as defined in the legislation) has the resources available to pay the funeral costs.

The panel recognizes, as a practical necessity, that a person requesting a supplement for funeral costs has the obligation to satisfy the ministry that no resources are available to the estate or a responsible person. The panel also recognizes that collecting that information (particularly if the details of the estate of the deceased is unknown at the time of death) may require the person requesting a supplement to spend significant time and effort gathering that information.

In this appeal, the panel finds that the appellant has not provided financial information to the ministry regarding the resources available to the deceased's estate or the deceased's spouse. Consequently, the panel finds that the ministry was reasonable in determining "it cannot be established that the estate of the deceased or his spouse did not have sufficient resources available to pay the necessary funeral costs, when payable. As such, this request does not meet the basic eligibility criteria for a burial or cremation supplement."

### **Conclusion**

The panel confirms the ministry decision and the appellant is not successful in his appeal.

### ***Extracts of The Relevant Legislation***

### **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.

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**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

Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/08/18

PRINT NAME

Inge Morrissey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/08/18

PRINT NAME

Kent Ashby

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/08/18