

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated November 26, 2021, which determined that the appellant was not eligible for a moving costs supplement as per section 55 of the Employment and Assistance for Persons with Disabilities Regulation.

Specifically, the ministry was not satisfied that the appellant did not have the resources to pay for the moving costs and that exceptional circumstances prevented him from requesting the ministry's approval beforehand.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5

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

See attached Schedule of Legislation

Part E – Summary of Facts

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant is a sole recipient of disability assistance.
- On September 3, 2021 he submitted a letter to the ministry stating he moved on August 20, 2021.
- On October 27, 2021 the appellant enquired about reimbursement for his moving costs.
- The ministry denied the request but was satisfied the appellant was required to move to avoid imminent threat to his physical safety and found \$500 for moving expenses, was the least expensive appropriate cost.

Letter from Appellant to Ministry (August 24, 2021, received September 3, 2021)

The appellant advised he moved on August 20, 2021. The main reason was due to his inability to walk up and down the stairs. He moved several items including bed, a freezer, couch, tables and chairs, kitchen items, bedding, cabinets and personal belongings. The total contract price was \$500.

Request for Reconsideration (November 9, 2021)

The appellant stated that due to his failure of securing a pre-approval letter for his move, he would like to request a reconsideration. The main reason for his move was because of his inability to manage the stairs. He was attending physiotherapy prior to the move with the hope of getting well, but it didn't help much.

Additional Information

Appellant

Notice of Appeal (December 9, 2021)

Reasons for Appeal

The appellant states he moved because he couldn't handle the stairs at his former residence. He didn't know he could apply for help so borrowed money to move. Someone told him he could try and get some money back because he can't pay this person yet. He's never done this before. Anything will help.

The appellant also states he can't go back to work as he's probably going into surgery. He didn't know the ministry would pay and he borrowed the money because he had to.

At the hearing, the appellant added that previous to the August 20, 2021 move, he also had to move because his residence at the time was under construction. That moved cost him \$800.

As well, the appellant added that he is waiting for his third MRI due to his back problem, possibly needs a hip replacement and hasn't been out of the house for four weeks. He can barely leave his house

unless someone accompanies him. When he dropped off his letter (August 24, 2021) to the ministry he didn't speak with anyone, as he can't stand for long.

Ministry

At the hearing, the ministry relied on the information in its record and added that going forward, the appellant should call the ministry before making any purchases (e.g. equipment) to see if he is eligible for reimbursement.

The panel determined the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for a moving supplement, as per section 55 of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of the decision.

Appellant Argument

The appellant argues he moved because he couldn't handle the stairs at his former residence but didn't know he could apply for a moving supplement.

He borrowed the money because he had to and can't pay this person back yet. The appellant states he can't go back to work as he's probably going into surgery.

Ministry Argument

The ministry argues that the appellant has not demonstrated that as a result of paying his moving costs, he is experiencing financial difficulties. Therefore, the ministry is not satisfied the appellant did not have the resources available to pay for the moving costs.

In addition, the ministry argues that the appellant did not receive the ministry's approval for a supplement to pay for his moving costs before incurring the costs and had not provided any information to indicate that exceptional circumstances prevented him from requesting the ministry's approval.

Analysis

Section 5 EAPWDA - disability assistance and supplements

Section 5 states, subject to the regulations, the minister may provide a supplement to a family unit that is eligible for it. The panel notes ministry records show the appellant is a sole recipient of disability assistance.

Section 55(3)(a) EAPWDR

Section 55 states a family unit is eligible for a supplement only if there are no resources available to cover the costs.

The panel finds there is insufficient evidence to demonstrate that the appellant had no resources to cover the moving costs. Although he stated he borrowed the money, and although this may suggest he had no resources, there is insufficient evidence to support this argument (e.g. written documentation showing amount, date of loan, repayment arrangements etc.) As well, no other evidence was submitted to demonstrate that the appellant had no resources to cover the costs of the move.

Therefore, the panel finds the ministry reasonably concluded that the appellant has not shown that there were no resources available to pay for the moving costs as per section 55(3)(a) of the EAPWDR.

Section 55(b)(3.1) EAPWDR

Section 55 also states a family unit is eligible for a supplement only if the recipient receives the minister's approval before incurring those costs. However, in addition, section 55 states 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 appellant argues that he was unaware he was supposed to obtain pre-approval before incurring the moving costs. The ministry argues the appellant hasn't demonstrated that there were exceptional circumstances for incurring the costs before the approval.

The panel finds "being unaware" cannot be considered exceptional circumstances. The panel therefore finds the ministry reasonably concluded that the appellant was not eligible under section 55(3.1) of the EAPWDR.

Conclusion

In conclusion, as all the criteria under section 55 of the EAPWDR were not met, the panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for a moving supplement, was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for Persons with Disabilities Regulation

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.

Appeal Number 2021-0241

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)

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

Part H – Signatures

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2021/12/22

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2021/12/22

Print Name

Linda Smervchynski

Signature of Member

Date (Year/Month/Day)

2021/12/23