

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (“ministry”) dated April 4, 2022, in which the ministry denied the appellant’s request for a burial supplement. The ministry decided that the appellant was not eligible for the burial supplement because:

1. the appellant had resources to pay for the necessary funeral costs, and
2. the burial costs were not the lowest reasonable cost for the services provided.

Part D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) section 65 and Schedule F

Part E – Summary of Facts**Evidence Before the Ministry at the Request for Reconsideration:**

The appellant's spouse died on February 17, 2022.

Financial Resources:

The appellant left paid employment in April 2021 to provide full time care for her spouse during his illness. The appellant and her spouse were receiving income assistance as a family unit at the time of the spouse's death. Their 2 adult children also gave some financial help.

When the appellant applied for the burial supplement, she provided the following financial information:

Bank #1, as of February 22, 2022:

- US Dollar Account, appellant sole account holder, balance \$14,252.41
- Savings Account #1, joint account with deceased, balance \$989.24
- Savings Account #2, joint account with deceased, balance \$301.07

Bank #2, as of February 17, 2022:

- Account #1, appellant sole account holder, balance \$161.12
- Account #2, appellant sole account holder, \$202.56

At the reconsideration, the appellant provided the following additional and updated financial information:

Bank #1, as of March 8, 2022:

- Bank profile showing US Dollar Account balance \$2.96

Student Loan Statement for Adult Child #1, as of March 8, 2022:

- outstanding balance of \$33,446.34, grace period having ended March 1, 2022

The appellant told the ministry that the funds in the US Dollar Account in Bank #1 did not belong to her, but to Adult Child #1. The appellant stated that Adult Child #1 had deposited savings in the appellant's account because Adult Child #1 had been a victim of bank fraud in their own bank account, and they did not trust the bank to keep their money secure. The appellant said that the funds were being held to repay the student loans of Adult Child #1 and had been returned to Adult Child #1 in March 2022, when the grace period for the student loan ended.

The appellant explained to the ministry that Adult Child #2 had submitted the first set of financial information for her in February 2022, and Adult Child #2 did not know about the arrangement with Adult Child #1.

The appellant and the deceased had no other assets.

Burial costs:

The burial costs totalled \$14,113:

- Cemetery:
 - Burial plot: \$3885
 - Opening and closing of the grave: \$1380
 - Concrete liner: \$1620
- Funeral services provider:
 - Professional services: \$945
 - Administration, documentation, and registration: \$250
 - Securing a release of deceased and transfer: \$375
 - Facilities and equipment: \$595
 - Disinfection of the body due to Covid 19: \$475
 - Funeral coach: \$550
 - BPCPA administration fee: \$40
 - Casket: \$650
 - Death certificates: \$27
 - Dry wash at the funeral home: \$500
 - GST & PST: \$239.50
- Prayers: \$200
- Tombstone: \$2200 (est.)

The burial costs were paid from the line of credit of Adult Child #2.

Additional Evidence:Appellant:

At the hearing the appellant stated that she became a permanent resident of Canada in 2015, although she has not lived in Canada continuously since then. Her adult children came to Canada to study in 2013.

The appellant opened the US Dollar account at Bank #1 when she came to Canada in the summer of 2015. In 2015 or 2016, Adult Child #1 called the appellant in a panic because their account at Bank #2 had been hacked and they had lost about \$2,300. After that, Adult Child #1 would not trust a bank, and the appellant's spouse suggested that Adult Child #1 put their money in an account in the appellant's name.

The appellant does not have any documents to show that the funds in the US Dollar account belonged to Adult Child #1. Adult Child #1 gave her the funds in cash, in different amounts over a period of time, some before 2019. The appellant never imagined that she would need documents to show the arrangement with Adult Child #1. She also did not tell anyone else, including Adult Child #2, that she was holding the funds for Adult Child #1, because it was a private matter. The appellant has never considered the money in the US Dollar Account to be hers, and she has never touched that money, even when she was in dire need.

Regarding burial costs, the appellant explained that their faith requires burial rather than cremation. The appellant and her 2 adult children consulted their religious association and were directed to a cemetery in another municipality. They were told it was the only cemetery where the deceased could be buried in community with others of their faith, and burial costs would be lower than in the municipality where the appellant lives. They did not choose any expensive items for the funeral services or the burial.

The appellant has borrowed the funds from Adult Child #2 to pay for the burial.

Adult Child #1:

Adult Child #1 gave evidence at the hearing. They said that they had deposited the money in the US Dollar account in the appellant's name after their experience of online bank fraud in 2016. Some of the money was left over from their student loans, and the rest came from income they earned in the year between completing an undergraduate degree in 2018 and starting a post-graduate degree. They did not consider opening an account in their own name at Bank #1 after the 2016 bank fraud, because they did not trust banks – but they trusted their mother to keep their money safe in Bank #1.

Their lack of trust in bank security was reinforced when they opened a bank account at Bank #3 in 2021 and their account was hacked again in October 2021. They provided documents showing that Bank #3 had corrected a fraudulent transaction on their account in January 2022. They are concerned that the 2 instances of bank fraud show there is a problem when their name is on the account.

The appellant transferred the money in the US Dollar account back to Adult Child #1 in March 2022. Adult Child #1 has paid some of that money towards their outstanding student loan.

Adult Child #1 confirmed that the funds in the US Dollar account were shown in US currency, not Canadian funds, so in Canadian dollars the amount was higher than \$14,252.41. The deceased had suggested the US Dollar account because he thought it would be more secure and separate from the parents' accounts.

Adult Child #1 said that they had asked Bank #2 for the appellant's updated financial profile, but Bank #2 refused to give it to them.

Regarding burial costs, the appellant and her adult children relied on the religious association and a family friend, who had recently buried a family member, to advise them on the most economical option. The deceased died unexpectedly, and they did not have time to prepare with their own additional research into costs.

The ministry did not object to any of the additional evidence submitted by the appellant.

The panel determined that the additional oral evidence at the hearing, and the additional bank documents, were admissible under section 22(4) of the EAA because they provide further details of the financial resources of the appellant, the cost of burial, and the reason for the

reluctance of Adult Child #1 to keep funds in their own name.

Part F – Reasons for Panel Decision

The issue to be decided is whether the ministry was reasonable in its decision to deny the appellant a burial supplement because the appellant had financial resources to pay the burial costs, and in the minister's opinion, the burial costs were not the lowest reasonable cost for the services provided.

Legislation:

Under EAR section 65, the minister may provide a supplement for "necessary funeral costs" if neither the estate of the deceased person, nor any "responsible person" (in this case, the spouse) has the resources to pay those costs. Funeral costs are "necessary" if the minister determines that the item or service is necessary and appropriate.

Under section 65(3.1), the amount of the supplement 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 in Schedule F, the cost that is, in the opinion of the minister, the lowest reasonable cost.

Schedule F section 1 provides that the burial supplement may include an amount for a funeral provider's fee for services, which must include:

- intraprovincial transportation, if that transportation is for a distance of 32 kilometres or less;
- completion and filing of the registration of death;
- obtaining a burial or cremation permit;
- coordination with a crematorium and cemetery;
- all professional and staff services;
- preparation of a deceased person's body for burial and cremation, including basic sanitary care and casketing;
- use of the funeral provider's facilities and equipment, including a preparation room, refrigeration and parking and service areas;
- other items or services incidental to or provided as part of any of the services described above, as agreed by the funeral services provider and the responsible person.

In respect of a burial, the supplement may include an amount for the following costs set out in Schedule F section 4:

- the cost of a burial plot in British Columbia;
- grave opening and closing fees;

- the cost of a grave liner if required by the cemetery;
- the cost of a casket, in an amount representing the sum of:
 - the actual factory invoice price of a HP #2 cloth-covered casket or an equivalent
 - a merchandising mark-up of up to 20%
 - the cost of freight to the funeral home.

Appellant's Position:

Financial Resources:

The appellant says that the funds in the US Dollar account in February 2022 were not hers. The money belonged to Adult Child #1, who deposited their own money in the account because of their experience with online bank fraud in their own accounts in 2015 and again in 2021. There are no documents to show that the money belongs to Adult Child #1, because the appellant never thought she would need to prove that she held the money for Adult Child #1.

In support of her argument that the money was not hers, the appellant points out that she has never touched those funds even when she was in dire need. When the deceased fell ill in 2021, they were advised by others to withdraw all the money in their bank accounts so that the government would pay for health care for the deceased, but they did not do so, preferring to be honest, and they should not be penalized for that choice.

Reasonable Cost of Burial:

The appellant and her adult children relied on the advice of their religious association and the family friend who had recently buried a family member, in making their decisions about funeral services, and they chose the most reasonable cost, including a burial site in a municipality some distance from where they live. The appellant says the ministry should consider additional expenses due to Covid 19, and the expenses related to religious requirements.

Even the \$5,000-\$6,000 the ministry says it pays for the burial supplement would help their situation.

Ministry's Position:

Financial Resources:

In considering a request for a burial supplement, the ministry looks at the assets of the estate, and of the spouse of the deceased, to see if there are sufficient assets to pay for necessary funeral costs.

Based on the documents the appellant gave to the ministry, the ministry determined that, at the time the burial expenses were payable, the appellant had enough money to pay for necessary funeral costs. The ministry included the money in the US Dollar account as part of the appellant's financial resources. The ministry now understands that amount is more than \$14,252, because of the currency conversion. The ministry relies on the bank statements the

appellant provided, as evidence that the money was hers. The appellant had the opportunity, at the reconsideration and again at the appeal, to give the ministry documents that show that the money was not hers, and nothing has been provided. If the appellant was holding funds on behalf of Adult Child #1, the ministry would need some documents to show that was the case.

Reasonable Cost of Burial:

The ministry says that, when considering a request for a burial supplement, it is bound by EAR Schedule F sections 1 and 2 and the ministry rates. The ministry policy manual includes a rate table for funeral costs:

- funeral provider's basic service fee – up to \$1285
- other items or services fee – up to \$815
- plus other amounts for transportation over 32 kilometres and cost of an urn.

The ministry acknowledges that burial costs in British Columbia can be “prohibitive.” However, the ministry determines the “lowest reasonable cost” according to the ministry rate table and the experience of the ministry employees who assess requests for burial supplements. When a person is eligible for the burial supplement, the ministry usually provides between \$5,000 and \$6,000. The ministry recognizes that there is a difference between what people may have to pay for burials, and what the ministry can pay.

The ministry gives the example of shelter allowances in support of its position. Under the Employment and Assistance Act and Regulations, the shelter allowance is limited to a certain amount, even though a recipient's actual rent may be higher. Similarly, a person may have to pay a higher amount for a burial, but the ministry is limited to paying no more than the amounts set out in the EAR and the policy manual, and only for the items set out in the legislation. Unlike the shelter allowance, however, the ministry does not provide any burial supplement if the applicant has paid more than the ministry amount.

The amount the ministry pays does not cover extra costs due to Covid 19 or religious requirements.

Panel Decision:

Financial Resources:

The bank statements and information that the appellant gave to the ministry when she first requested the burial supplement in February 2022 show assets of \$14,252 USD, and \$1,654 CAD in 5 accounts at 2 banks. The ministry determined that those amounts were sufficient to pay the funeral costs, and therefore the appellant was not eligible for the burial supplement.

While the appellant and Adult Child #1 maintain that the money in the US Dollar account belongs to Adult Child #1, the panel finds that there is not sufficient evidence to show that the money did not belong to the appellant. Their evidence is that the US Dollar account was created in the summer of 2015, before Adult Child #1 had an issue with bank fraud, and several years

before Adult Child #1 says they began earning money and depositing it in the account. The account is only in the name of the appellant. While it is possible that Adult Child #1 deposited money in the account as they state, the appellant has not provided documents or other supporting evidence showing those deposits or the source of the funds. The panel finds it was reasonable for the ministry to require documents and supporting evidence beyond just the statements of the appellant and Adult Child #1. Therefore, the panel finds it was reasonable for the ministry to include the funds in the US Dollar account as the appellant's assets.

Reasonable Funeral Costs:

Under EAR section 65 the ministry may provide a burial supplement for necessary funeral costs. Under section 65(3.1) the amount of the supplement is either the amount set out in EAR Schedule F, or the lowest reasonable cost, in the opinion of the minister.

Schedule F sets out items that may be included in the burial supplement, but other than mileage rates for intraprovincial transportation, and a specific percentage markup for a casket, Schedule F does not set out amounts for the various items and services that make up the costs of a funeral. The amounts to which the ministry refers in the reconsideration decision – up to \$1285 for the funeral provider's basic fee and up to \$815 for other items or services – are found in the ministry policy manual.

In its reconsideration decision the ministry states that, in the minister's opinion, the amount the funeral service provider charged was not the lowest reasonable cost. The ministry refers to "the legislation, rate table, and established rates that have been set by the ministry for funeral homes and cemeteries throughout the province," and indicates that "the maximum amount the ministry will usually be able to assist a family with...is about \$5,000-\$6,000." The ministry representative confirmed that "established rates" referred to the rate table in the policy manual.

The panel may consider ministry policy when determining whether a ministry decision is a reasonable application of the legislation in the appellant's circumstances, but the panel is not bound by ministry policy.

Based on the evidence at the hearing, the panel finds that the appellant took appropriate steps to find the most economical funeral costs, by consulting the religious association and another person who had researched funeral costs, and by having the burial in a municipality some distance from the more expensive location where the appellant lives. The rate table in the policy manual, and the amounts the ministry says it is 'usually able' to pay, are much lower than the actual costs to the appellant. The ministry has not provided sufficient information to support the minister's opinion that the funeral costs incurred by the appellant were not the lowest reasonable cost. The minister's opinion is not reasonable if it does not consider the actual cost of funeral services available to the public.

While not every item listed in the invoices from the cemetery and the funeral service provider is included in the allowable items for the burial supplement in Schedule F, the panel finds that the ministry was not reasonable in determining that the remaining items were not the lowest reasonable cost. Further, if there are additional necessary costs due to Covid 19, or due to the religious affiliation of the deceased, it is not reasonable for the ministry to fail to consider

whether those items are necessary and appropriate, if they fall within the parameters of Schedule F.

Therefore, the panel finds that the ministry was not reasonable in determining that, for the items listed in Schedule F, the amounts charged were not the lowest reasonable cost.

Conclusion:

The panel finds that the ministry was not reasonable in determining that the funeral costs were not the lowest reasonable cost. However, the panel finds that the ministry was reasonable in determining that the appellant had the resources to pay necessary funeral costs.

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

Schedule A

Employment and Assistance Act

Employment and Assistance Regulation

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.

Schedule F

Burial and Cremation Costs

(section 65)

Burial and cremation supplement

1 A supplement that is paid under section 65 of the regulation may include the following amounts:

(a) an amount for a funeral provider's fee for services;

(b) an amount for the costs of intraprovincial transportation, if that transportation is for a distance greater than 32 kilometres;

(c) in respect of a burial, an amount for the costs set out in section 4 of this Schedule;

(d) in respect of a cremation, an amount for the costs set out in section 5 of this Schedule.

Funeral provider's fee for services

2 The services provided in respect of a funeral provider's fee for services must include:

(a) intraprovincial transportation, if that transportation is for a distance of 32 kilometres or less;

(b) completion and filing of the registration of death;

(c) obtaining a burial or cremation permit;

(d) co-ordination with a crematorium and cemetery;

(e) all professional and staff services;

(f) preparation of a deceased person's body for burial or cremation, including basic sanitary care and casketing;

(g) use of the funeral provider's facilities and equipment, including a preparation room, refrigeration and parking and service areas;

(h) other items or services incidental to or provided as part of any of the services described in paragraphs (a) to (g), as agreed by the funeral services provider and the responsible person.

Rates for intraprovincial transportation

3 Mileage for intraprovincial transportation for a distance greater than 32 kilometres must not exceed the rate set out in Column 2 of the Table below opposite the distance set out in Column 1.

Item	Column 1 Distance	Column 2 Rate
1	more than 32 km but less than or equal to 82 km	\$1/km
2	more than 82 km but less than or equal to 182 km	\$.90/km
3	over 182 km	\$.60/km

Costs of burial

4 (1) A supplement payable in respect of a burial may include an amount for the following costs:

- (a) the cost of a burial plot in British Columbia;
- (b) grave opening and closing fees;
- (c) if a grave liner, hermetically sealed rigid container, plastic body pouch or outer grave box or liner is required by the cemetery, the cost of the liner, container, pouch or box;
- (d) the cost of a casket, in an amount representing the sum of the following:
 - (i) the actual factory invoice price of a HP #2 cloth-covered casket or an equivalent or, in the case of over-sized remains, a casket for over-sized remains;
 - (ii) a merchandising mark-up of up to 20%;
 - (iii) the cost of freight to the funeral home.

(2) A lower cost casket may be used at the request of a responsible person.

(3) The minister may pay for the remains of a deceased person to be interred at a location within British Columbia other than the location at which the remains were prepared for burial in an amount not to exceed the amount that would be payable for the costs described in subsection (1) (a) to (c) and intraprovincial transportation costs.

Costs of cremation

5 (1) A supplement payable in respect of a cremation may include an amount for the following costs:

- (a) cremation fees;
- (b) the cost of a cremation plot in British Columbia;
- (c) grave opening and closing fees;
- (d) if a concrete grave liner is required by the cemetery, the cost of the grave liner;
- (e) the cost of an urn in an amount not to exceed \$200.

(2) The minister may pay for the remains of a deceased person to be interred at a location within British Columbia other than the location at which the remains were cremated in an amount not to exceed the amount that would be payable for the costs described in subsection (1) (b) to (d).

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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2022/05/03

Print Name

Anil Aggarwal

Signature of Member

Date (Year/Month/Day)

2022/05/03

Print Name

Charles Schellinck

Signature of Member

Date (Year/Month/Day)

2022/05/03