

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated December 19, 2022, which determined the appellant was not eligible for reimbursement as a moving cost supplement per section 55 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Specifically, the ministry determined the appellant was not eligible for reimbursement of her moving costs of \$2085 as she did not obtain the ministry's prior approval before incurring the costs, as required under section 55(3)(b) of the EAPWDR and exceptional circumstances did not exist, as required under 55(3.1) of the EAPWDR.

### **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

**Part E – Summary of Facts****Relevant Evidence Before the Minister at Reconsideration****Ministry Records show:**

- The appellant is a sole recipient of disability assistance.
- The appellant moved into her new residence on November 1, 2022.
- On November 23, 2022 the appellant contacted the ministry advising she was compelled to move because the home she was living in was sold.
- On December 1, 2022 the ministry denied the appellant's request because it determined she did not receive prior approval before incurring the cost of her move and no exceptional circumstances preventing her from requesting assistance before incurring the costs, were identified.
- On December 5, 2022 the appellant submitted her request for reconsideration and on December 6, 2022 she submitted a receipt for the cost of the move totalling \$2085.

**Request for Reconsideration (December 5, 2022)**

The appellant states she wasn't aware she could get any assistance until after the move. The place she was renting had been sold, the new owners were raising the rent and she needed to be closer to a hospital where she can get her surgery. She obtained quotes from three moving companies and found a local mover who offered the best price. The appellant is asking for help as she borrowed money from a friend.

**Deposit for Moving Costs (sent on October 4, 2022)**

The appellant submitted a screenshot of a successful money transfer with the message "Deposit for moving costs" in the amount of \$800

**Note from Moving Company (November 2, 2022)**

The note indicated the company had received a total of \$2085 from appellant

**Detailed Quote from Moving Company (no date)**

Total distance – 538 km

Pick-up date October 31, 2022

Move size – one bedroom apartment

Estimated weight – 1000 – 3000 lbs

Total -\$2745

## Additional Information

### **Notice of Appeal (December 20, 2022)**

The appellant did not provide any information under the “Reasons for Appeal”.

### **Appellant Submission (December 28, 2022)**

The appellant states that as her place of residence was sold, she had to move for more affordable housing. She also has some new physical health challenges and a new specialist for an upcoming surgery, and needs to be closer to a hospital.

The appellant states she feels this is unfair due to the fact she did not know she was eligible for help. As well, with the passing of her brother recently her mental health is impaired.

### **Ministry Submission (January 9, 2023)**

The ministry stated its submission in this matter will be the reconsideration summary provided in the Record of Ministry Decision.

With the consent of both parties, the appeal proceeded as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

The panel determined all 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 reimbursement of a moving cost 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.

Specifically, did the ministry reasonably determine that the appellant was not eligible for reimbursement of her moving costs of \$2085 as she did not obtain the ministry's prior approval before incurring the costs, as required under section 55(3)(b) of the EAPWDR and exceptional circumstances did not exist, as required under 55(3.1) of the EAPWDR?

The ministry was satisfied that the appellant was compelled to vacate her residence and that she did not have the available resources, in accordance with sections 55(2)(c) and 55(3)(a) of the EAPWDR.

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

**Appellant Argument**

The appellant argues she wasn't aware she could get any assistance until after the move. As her place of residence was sold, she had to move for more affordable housing. She obtained quotes from three moving companies and found a local mover who offered the best price. She borrowed money from a friend.

She also argues she has some new physical health challenges and a new specialist for an upcoming surgery, and needs to be closer to a hospital. In addition, the appellant argues that with the passing of her brother recently her mental health is impaired.

**Ministry Argument**

The ministry argues that as the appellant moved into her new residence on November 1, 2022 and did not ask for the ministry's help until November 23, 2022, this means she did not obtain the ministry's prior approval before incurring moving costs as required by Section 55(3)(b) of the EAPWDR. The ministry argues further that it found no evidence to suggest the appellant did not have the opportunity to ask the ministry for help in advance of her move. And, because the appellant has not provided any information to explain why she did not ask for the ministry's help prior to incurring the costs, the ministry argues it is unable to establish that exceptional circumstances exist in accordance with section 55(3.1) of the EAPWDR.

## **Panel Analysis**

### Section 5, EAPWDA - disability assistance and supplements

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

### Section 55(3), EAPWDR - supplements for moving costs

Section 55(3)(b) of the EAPWDR states a family unit is eligible for a supplement under this section only if a recipient in the family unit receives the minister's approval before incurring those costs.

Ministry records show on November 23, 2022 the appellant contacted the ministry regarding her move on October 31, 2022. As the appellant contacted the ministry weeks after her move, the panel finds the ministry reasonably determined that she did not obtain the ministry's prior approval before incurring moving costs as required under section 55(3)(b) of the EAPWDR. However, the appellant does not dispute that she did not receive the minister's prior approval, only that she was unaware she could receive assistance, until after the move.

Section 55(3.1) of the EAPWDR 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 as her place of residence was sold, she had to move for more affordable housing. She also argues she has some new physical health challenges and a new specialist for an upcoming surgery, and needs to be closer to a hospital. In addition, the appellant argues that with the recent passing of her brother her mental health is impaired.

Although the panel acknowledges the appellant may not have known she had to receive prior ministerial approval, had compelling reasons to move and has faced other challenges, the panel finds there is insufficient evidence to demonstrate that exceptional circumstances existed, which prevented the appellant from obtaining approval for her moving costs prior to her move on October 31, 2022. Therefore, the panel finds the ministry reasonably determined exceptional circumstances did not exist as required under section 55(3.1) of the EAPWDR.

**Conclusion**

In conclusion, the panel finds the ministry's reconsideration decision that determined the appellant was not eligible for reimbursement of a moving cost supplement as per sections 55(3)(b) and 55(3.1) of the EAPWDR 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:

...

"moving cost" means the cost of

(a) moving a family unit and the family unit's personal effects from one place to another, and

...

(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:

...

(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;

...

(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.

(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.

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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)

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

**Part H – Signatures**

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2023/01/20

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2023/01/20

Print Name

Katherine Wellburn

Signature of Member

Date (Year/Month/Day)

2023/01/20