

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated March 1, 2023. The ministry found the appellant was not eligible for a moving supplement for storage costs incurred from September to December 2022 under section 55 (3) of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation. The ministry acknowledges that the appellant does meet the eligibility criteria to receive a moving supplement for 2 months of storage costs for January and February 2023 plus the request for additional funds to move her items from storage to her new home. Regarding the storage costs incurred between September and December 2022, the ministry was not satisfied that:

- The appellant did not have resources available to pay the storage costs as costs for the 4-month period were paid in full.
- The appellant received prior approval before incurring the storage costs.
- There were exceptional circumstances to approve the request.

Part D – Relevant Legislation

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

Part E – Summary of Facts**Information before the ministry at Reconsideration**

The appellant is a sole recipient of disability assistance.

Summary of Key Dates

- August 17, 2022, the appellant received an eviction notice dated August 17, 2022, stating she was to vacate the property by September 10, 2022 as the property had sold.
- September 27, 2022, the appellant requested a crisis supplement for shelter.
- October 17, 2022, the appellant was issued a \$275 crisis supplement for shelter.
- December 29, 2022, the appellant went to the ministry office and requested a crisis supplement for shelter assistance to address storage costs.
- January 9, 2023, the ministry assessed the appellant's request and determined the appellant was ineligible for a crisis supplement for storage costs. It was determined the current storage costs were not unexpected, the appellant had a place of residence, and therefore was not in danger of homelessness or physical harm.
- January 17, 2023, the appellant was advised of the ministry decision.
- February 14, 2023, the appellant submitted a request for reconsideration. The Request for Reconsideration included:
 - An advocate report dated February 13, 2023, stated:
 - The issue under review was whether the appellant was eligible for a moving supplement.
 - The original request for help with funds was denied as a crisis supplement for shelter.
 - The storage is related to a move and should be considered as a moving supplement and also funding is required to complete the move.
 - The appellant has no resources to cover the costs. She has had help from her son to move items.
 - The money used to pay for storage is money the appellant needs to live on and she is now behind on bills. The appellant doesn't have enough money for food, eye or dental care, and she has been borrowing money to get by.
 - The appellant did ask for help in December but was unclear what to ask for.
 - A written statement by the appellant dated February 13, 2023, which stated:
 - The appellant had not requested a moving supplement for the initial move in September but was now asking for a moving supplement to cover the costs of using a vehicle, gas, and paying helpers to complete the move.

- There were exceptional circumstances which impacted receiving prior approval as the appellant was a person with disabilities, had very little notice for the move, she was in physical and emotional distress at the time and could not manage the steps required to approach the ministry for help and as a result, put some belongings in storage.
- The appellant asked for discretion to reimburse her for storage fees for September 2022 to February 2023 as part of a moving supplement.

Attachments

- Eviction Notice dated August 17, 2022, noting the appellant was to vacate by September 10, 2022.
- Statement of Account from a storage facility for the period of September 1, 2022, to September 1, 2023, showing a monthly rate of \$93.45 with no outstanding balance.

Information provided on Appeal

At the hearing, the appellant stated:

- She did not have the funds to pay for her move or storage fees.
- She is requesting the storage costs for the months of September 2022, to December 2022.
- She did not remember details regarding contact with the ministry from September through December 2022 for other various requests.
- She had to go without food and other things to pay for the storage fees.

At the hearing, the appellant's support person reported:

- The appellant does not have the capacity to know what to expect from the ministry in terms of assistance.
- The appellant is trying to eliminate the moving cost of storage as she does not have the required resources.

At the hearing, the ministry representative stated:

- Although the appellant had requested assistance under a crisis supplement, the ministry had reviewed the request as a moving supplement.
- The appellant had contacted the ministry office in September 2022, and October 2022, requesting and receiving a crisis supplement for shelter, but at that time, the appellant had not requested assistance for the storage of her belongings.

Part F – Reasons for Panel Decision**Appeal Issue**

The issue on appeal is whether the ministry's decision that the appellant was ineligible for a moving supplement to pay for storage fees for September through to December, 2022, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. That is, was the ministry reasonable when determining that the requirements of section 55 (3) & (3.1) of the EAPWDR, were not met for this period because:

- the ministry is not satisfied that no resources were available to the appellant to cover the cost of storage;
- the appellant had not received the minister's approval before incurring the cost of the storage fees from September 1, 2022 through December 29, 2022;
- the minister was not satisfied that exceptional circumstances existed so that a supplement could be provided even if the appellant did not receive the minister's approval before incurring the costs.

Appellant's Position

- Upon being evicted from her residence, with less than 30 days to vacate, the appellant was pressed for time to organize a move and she was extremely overwhelmed. She could not manage travelling to the ministry office or sitting on hold on the toll-free number to ask the ministry for help with the move. As a person with a disability the appellant feels she was in physical and psychological/emotional distress, as well she was experiencing back pain and as a result of her state, was unable to manage the steps required to approach the Ministry for help at the time of her move.

Ministry Position

- In the course of the Reconsideration process, the Ministry acknowledged that the request should have been assessed under the moving supplement criteria, not the crisis supplement criteria.
- The ministry provided advice that there are instances where it will modify the appellant's request for a subsidy to one more appropriate to their circumstances.
- As the original date for the appellant's crisis supplement application was December 27, 2022, upon reconsideration, the ministry viewed this as seeking the required prior approval for a moving supplement, prior to incurring storage costs for January and February 2023.
- The ministry found the appellant met the eligibility criteria to receive a moving supplement for 2 months of storage costs for January and February 2023 plus additional funds to move her items from storage to her new home.
- The ministry found the appellant did not meet the criteria to receive a moving supplement for storage costs incurred from September to December 2022 as the appellant had paid in full the cost of storage and therefore had the resources and as she did not have prior approval from the ministry to incur those costs.

- As the appellant had opportunity to contact the ministry before she moved and she was in contact with the ministry in terms of other issues through to December when she asked for assistance with moving costs, the ministry was not satisfied that exceptional circumstances existed to approve paying for the storage costs from September to December 2022.

Panel Finding

The panel finds that section 55 (3) of the EAPWDR requires the appellant must meet two requirements to be eligible for a moving supplement. The first requirement, there are no resources available to cover the costs for which the supplement may be provided, and secondly, the recipient receives the minister's approval before incurring those costs.

After completing the Reconsideration process the ministry determined the appellant did meet the criteria to receive a moving supplement to assist in storage costs for January and February 2023 and for funds to move items from storage to the appellant's new home.

However, the ministry found the appellant ineligible for help with storage costs as a moving supplement for costs incurred for the months of September through December 2022 as the appellant had paid in full the storage costs for the months of September through December 2022, and had not asked for assistance from the ministry for moving costs until December 29, 2022. The panel reviewed the evidence and noted that the storage costs were paid in full for the months of September to December. The panel therefore finds that the ministry reasonably determined that the appellant had resources to cover these costs. The appellant requested assistance in December therefore the panel finds that the ministry reasonably determined that the appellant did not have prior approval for coverage of storage costs from September to December.

Section 55 (3.1) states a supplement may be provided even if the appellant did not receive the minister's approval before incurring the costs if the minister is satisfied that exceptional circumstances exist. Although the appellant states that the time pressure and emotional stress were exceptional circumstances that would support her claim for a moving supplement, the ministry's position is the circumstances were not exceptional as the appellant had time and numerous opportunities to communicate her needs for assistance in storing her items. The panel is sympathetic to the appellant's circumstances, but finds that the ministry's conclusion on this point to be reasonable. In the panel's view, the appellant had several months to make the request for assistance.

Conclusion

While the panel has sympathy for the appellant and her situation regarding financial hardship, it finds that the ministry was reasonable in determining the appellant was not eligible for a moving supplement to pay storage fees from September 1, 2022, to December 31, 2022. The panel confirms the ministry reconsideration decision. The appellant is not successful in the appeal.

Applicable Legislation
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 income 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 fulfill in connection with the exercise of a maintenance right assigned to the minister under section 20 [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. [am. B.C. Reg. 275/2004, s. 1.]

APPEAL NUMBER 2023-0078

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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2023/04/11

Print Name

Corrie Campbell

Signature of Member

Date (Year/Month/Day)

2023/04/11

Print Name

Joe Rodgers

Signature of Member

Date (Year/Month/Day)

2023/04/11