

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated March 27, 2023. The ministry found the appellant was not eligible for a moving supplement for moving costs incurred December 2022 under section 55 of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation. The ministry acknowledges that the appellant does meet the eligibility criterion to receive a moving supplement as the appellant was compelled to move because her landlord was moving their family in due to illness, but the ministry was not satisfied that:

- The appellant did not have resources available to pay the moving costs as reimbursement was requested two months after the appellant’s move.
- The appellant received prior approval before incurring the storage costs.
- The moving costs were the least expensive, most appropriate costs as moving receipts included expenses for drinks and meals.
- There were exceptional circumstances to approve the request.

**Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Act, (EAPWDA) Section 5  
Employment and Assistance Regulation, (EAPWDR) section 55

**Part E – Summary of Facts****Summary of key dates:**

- **January 12, 2023-** the appellant submitted a monthly report declaring she had moved, and her rent had changed to \$900.
- **January 18, 2023-** the appellant submitted a shelter form indicating she had secured new accommodation, her total rent was \$1800, her portion was \$900.
- **February 3, 2023-** the appellant requested reimbursement for moving costs incurred December 15 and 16, 2022. Receipts for U-Haul rental, fuel, ferries and food were provided. The appellant advised the ministry the move was required because of transportation costs and mobility issues by being in a remote location. As well, rent may be less expensive as utilities were included.
- **February 13, 2023-** the appellant advised the ministry most areas where she lived were up hill and as she had had surgery and a plate in her ankle, she was advised by her doctor she should not be walking up hills. As well, she had no access to meetings and her delay in submitting her request for moving was because she had no way to get to the office.
- **February 15, 2023-** the ministry advised the appellant she was not eligible for reimbursement of moving costs as she had not requested the supplement until two months after the move. The appellant indicated the reason for the delay was because she could not get to the office. The ministry found the appellant could have contacted the ministry by phone to request help. Based on the conversation the ministry had with the appellant the ministry felt no exceptional circumstances were presented.
- **March 1, 2023-** the appellant submitted a **Request for Reconsideration**. The appellant noted she was not aware she was required to have the ministry's approval before she moved. As well, her reasons for moving were because she needed access to services, issues with walking and the landlord was moving a family member in due to illness.
- **March 27, 2023-** The ministry completed the appellant's Request for Reconsideration, the appellant was not successful.
- **April 5, 2023-** in the appellants **Notice of Appeal**, under Reasons for Appeal, the appellant notes she feels overlooked for getting help with her moving expenses. She feels penalised for not knowing she had to ask for permission to move and that her mental health has improved since the move.

**Evidence before the ministry at the time of reconsideration:**

- Request for Reconsideration dated 2023/02/27 the appellant stated in Section 3, Reason For Request For Reconsideration:
  - She was not aware that she had to get approval beforehand.
  - If she had known that she had to submit a request to move, she would have.
- Documents submitted by the appellant included the following moving expenses:
  - U-Haul rental
  - BC Ferries
  - Fuel
  - Food

**At the hearing the appellant stated:**

- She was not aware she able to ask for assistance to move.
- Her last place of residence was hilly and isolated. Her new residence is close to supports such as medical specialists and it is easier to move about.
- The move did not come out of the blue, she had planned to move a week before she did but later stated her friend showed up with a U-Haul to move her so they left quickly in two days so was unable to ask for assistance because of the short timeline.
- She doesn't necessarily need help with all the expenses, she can pay for some fuel but really wants \$1100 to pay her friend who rented the truck.
- After the decision to move was made, she found out two days before leaving the landlord was moving a sick family member into the home.
- She learned about the moving supplement in February 2023, when asking an advocate for assistance.
- She had made little contact with the ministry. Usually by phone and her monthly stub submission.

**At the hearing the appellant's advocate stated:**

- The appellant's mental health was an issue in decision making and should be considered an exceptional circumstance for funding to be granted.
- The appellant's mental health has improved since the move and the appellant is now more capable for standing up for herself.

**At the hearing the ministry representative stated:**

- A client does not have to ask permission to move.
- The moving supplement when used to assist clients has guidelines to follow as set out in the legislation. It is not for reimbursement of funds spent by a client who has not followed the correct protocol unless exceptional circumstances exist.
- A moving supplement is not guaranteed funding, regulations must be followed. A client can choose to move and pay for the expenses. If a client must move and does not have the resources, they can talk with the ministry to seek assistance. Assistance offered includes several steps such as moving quotes, lowest costs, and pre-approved cheques for the moving company.
- The appellant did not indicate on her monthly stubs the need for moving assistance before her move and not until 2.5 months after she had moved.

**Admissibility of new information**

Section 22(4) of the EAA says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case the appellant had submitted orally they their friend had paid for the moving vehicle at a cost of \$1100. The ministry did not object to the evidence. The panel admits the new information under section 22(4) of the Employment and Assistance Act as evidence is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether the ministry's decision that the appellant was ineligible for a moving supplement to pay moving costs incurred December 15, 16, 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 moving costs;
- the appellant had not received the minister's approval before incurring the cost of the move December 15, 16, 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.

**Panel Decision**

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

After completing the Reconsideration process the ministry determined the appellant was eligible to request a moving supplement as she was compelled to move because her landlord was moving their family in due to illness. However, the ministry found the appellant ineligible for a moving supplement as the appellant had access to resources to pay for the move and the moving costs occurred prior to approval being granted by the ministry.

The panel reviewed the evidence and noted that the moving costs were paid in full by the appellant's friend and financial assistance was not requested until two months after the appellant had moved. The panel therefore finds that the ministry reasonably determined that the appellant had resources to cover these costs.

As the moving costs were incurred in December 2022 and the appellant requested assistance in February 2023, two months after the expenses were experienced, the panel finds that the ministry reasonably determined that the appellant did not have prior approval for moving costs.

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 she was not aware that she could apply for assistance and was not able to go to the ministry office to seek assistance, the ministry's position is these two circumstances are not exceptional as the appellant had time and opportunities to communicate her needs for assistance to pay for moving costs. 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 knew she was moving a week before her actual move and therefore, had time to make the request for assistance via the local BC Services office or her cell phone.

In terms of the appellant's mental health at the time of the move, the advocate suggested the appellant was not mentally capable to make decisions such as asking for ministry assistance. After the move the appellant was much more mentally capable. The panel finds there is no documented or clinical evidence to substantiate this claim. The panel finds the ministry was reasonable to conclude no exceptional circumstances existed in the appellant's situation.

### **Conclusion**

The panel finds the ministry's reconsideration decision was reasonably supported by the evidence and confirms the ministry's reconsideration decision. The appellant is not successful in her appeal.

## **Relevant Legislation**

### **Employment and Assistance 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 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.]

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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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2023/05/04

Print Name

Effie Simpson

Signature of Member

Date (Year/Month/Day)

2023/05/04

Print Name

Richard Franklin

Signature of Member

Date (Year/Month/Day)

2023/05/04