

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (“ministry”) reconsideration decision dated April 12, 2023. The ministry found the appellant was not eligible for a burial supplement on behalf of her deceased mother as per Section 65 of the Employment and Assistance Regulation (EAR). The ministry was not satisfied that:

- Neither the estate of the deceased person nor any responsible person has the resources available to pay any of the funeral costs.
- Costs incurred for the funeral and burial were the lowest reasonable cost, and within the rates set by the legislation.

Part D – Relevant Legislation

Employment and Assistance Regulation Section 65 and Schedule F

Part E – Summary of Facts**Summary of Key Dates:**

- January 30, 2023
 - The deceased's son contacted the ministry reporting his mother's passing.
- January 31, 2023
 - The daughter of the deceased contacted the ministry and stated:
 - The name of the funeral service provider.
 - She was financially responsible for her mother prior to her passing.
 - The deceased did not hold a bank account.
 - The deceased had permanent residency and was married.
 - She was no longer responsible as her mother has permanent residency.
 - She has to pay out of pocket expenses.
 - The ministry requested:
 - All banking information from the deceased's spouse, including statements for all accounts, and all permanent residence paperwork and ID for the deceased.
 - An appointment was booked for February 3, 2023.
- February 3, 2023
 - Initial intake with the ministry was completed.
 - The appellant:
 - Requested assistance with full-service burial and dinner for guests for \$2000, and that there was approximately \$13,000 required for funeral costs.
 - Provided banking information for herself, her spouse, and father but refused to provide banking information for the remaining 3 sponsors.
 - The ministry:
 - Noted that the sponsorship document of the deceased had 5 sponsors (the appellant, her spouse, and 3 others) and therefore advised the appellant she was required to provide banking information for all 5 sponsors.
 - Determined the informal joint trust held by the appellant and her spouse with a \$25,000.09 balance (document stamped January 2021) was an available resource.
 - Spoke to the mosque representative who reported:
 - They were unaware the appellant would be applying for funeral assistance with the ministry.
 - The plot had already been paid for.
 - The family had paid the mosque for cultural preparations for burial, including a ceremony.
 - That there is assistance available to help families who cannot afford the plot.
 - Confirmed with the funeral home that no funds had been paid to them and they were also not aware the family was applying to the Ministry for assistance.

- March 1, 2023
 - The appellant was informed of the ministry's decision to deny her request for a burial supplement.
- March 28, 2023
 - The appellant submitted a Request for Reconsideration stating:
 - She was aware that she sponsored her mother within a group of 5 and had been informed of her responsibilities regarding her mother's funeral costs.
 - As the other sponsors do not believe they are not responsible for funeral costs, she did not provide any financial information for the others.
 - She was told during the application process that her mother may be eligible for funeral assistance regardless of her status.
 - She couldn't wait for funeral assistance to be approved first due to religious and traditions that could not be delayed.
 - Her father had to borrow money for some of the costs, he still owes for some of the other expenses, and he is struggling to pay for the funeral and other debts.
- April 12, 2023
 - The appellant's request for a burial supplement for her deceased mother was denied.
- May 1, 2023
 - In the appellant's Notice of Appeal, she stated:
 - Her dad doesn't have any financial resources.
 - They didn't sponsor for burial.

Evidence before the ministry at the time of reconsideration:

- Documents submitted:
 - The appellant's savings account statement dated January 31, 2023, with a balance of \$183.29.
 - The appellant's spouse bank account for 60 days, December 2022-January 2023 with a balance of \$4,794.79.
 - The appellant's second account for a 60 period with a balance of \$75.63.
 - Joint trust opened October 2020 with \$25000.09 held by the appellant and her spouse with no balance remaining as of November 2022.
 - The deceased's chequing account with a balance of \$11.13 on February 2023.
 - Permanent Residency Card for the deceased, expiring September 2027.
 - 2019 CRA Notice of Assessments for the appellant, her spouse, and two of the three other sponsors.
 - Sponsor Undertaking and Settlement Plan for the group of 5 sponsors.
 - A list showing who contributed to the Trust fund and the transfers made to the deceased's spouse in December 2020 and January 2021.

At the hearing, the appellant stated:

- She handled the paperwork of the sponsorship program for her mother and father.

- Her mother was diagnosed with cancer before she came to Canada.
- Medical costs in Canada for her mother's cancer treatment were covered by the government.
- She was told by the local community they could apply for assistance from the ministry to help pay for her mother's funeral costs.
- Of the 25,000 held in trust, \$15000 was spent on medical treatments for her mother's cancer before arriving to Canada.
- Her parents applied for social assistance, but they were denied as their sponsors were financially responsible.
- Her father has borrowed money from friends and family to pay the funeral bills of which \$3800 is still outstanding.
- She knows the 5 sponsors are responsible for her mother's financial needs but was not sure about the burial costs.
- The mosque was approached for assistance, but nothing was done.

At the hearing, the ministry representative stated:

- Based on the signed government document of sponsorship, as the 12 months residency in Canada had not been reached by the deceased, the 5 sponsors are responsible for the funeral costs if they have the resources.
- Not all information requested by the ministry has been given. Some banking information was submitted, but not for all 5 sponsors. A detailed cost for the funeral was not submitted so the ministry was not able to determine the lowest reasonable cost.
- Medical treatment of the deceased was covered by the federal government.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision that the appellant was ineligible for a burial supplement to pay for funeral costs incurred for the appellant's deceased mother, 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 65 (2) of the EAR, were not met because the ministry is not satisfied that no resources were available to the appellant to cover the burial costs.

Panel Decision

Section 65 (2) of the EAR requires the appellant to demonstrate that neither the estate of the deceased person nor any responsible person has the resources available to pay any of the burial costs when payable.

After completing the Reconsideration process the ministry determined the appellant was ineligible for a burial supplement as the appellant had not supplied the information requested for by the ministry to determine if the estate or any "responsible person" had access to resources to pay for the funeral costs.

The panel reviewed the evidence and noted that a "responsible person" as defined in section 65 (1) of the EAR, includes a person who has sponsored a person to immigrate to Canada under the Immigration Act or the Immigration and Refugee Protection Act. Section 65 of the EAR provides for burial or cremation supplement where the estate of a deceased person or any "responsible person" does not have any resources to pay certain costs. A "responsible person" includes a sponsor or cosponsor who sponsored a person to immigrate to Canada. The panel finds that there were 5 sponsors for the deceased as the appellant states there are in her written statement in section 3 of Reason for Request for Reconsideration and she also confirmed there were 5 sponsors during the appeal hearing.

The panel finds the financial information of several of the responsible persons was not provided to the ministry. The ministry states in the Reconsideration Decision in the Eligibility review that financial documentation were not submitted for 3 of the 5 sponsors and therefore it was not able to determine if the sponsors had the available resources to pay for funeral costs. The appellant stated during the appeal hearing and in her written statement in section 3 of Request for Reconsideration, she had not supplied the financial information of all sponsors as they believed they were not responsible for the funeral costs. The panel therefore finds that the ministry reasonably determined that they were not able to assess accurately if resources were available to cover the burial costs as requested information was not shared by 3 of the 5 sponsors.

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 burial supplement to pay for her mother's funeral costs. The panel confirms the ministry reconsideration decision. The appellant is not successful in the appeal.

Relevant Legislation

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;

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).

APPEAL NUMBER 2023-0127

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)

2023/06/12

Print Name

Joe Rodgers

Signature of Member

Date (Year/Month/Day)

2023/06/12

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2023/06/12