

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision, dated March 12, 2024 (the “Reconsideration Decision”) of the Ministry of Social Development and Poverty Reduction (the “Ministry”). The Ministry determined that the Appellant was not eligible for a burial or cremation supplement because the Ministry was not satisfied that neither the estate of the Appellant’s spouse nor the Appellant, as the responsible person for her deceased spouse (the “Deceased”), had insufficient resources to pay for funeral costs as required by section 65(2) of the *Employment and Assistance Regulation* (the “Regulation”).

Part D – Relevant Legislation

Employment and Assistance Regulation- section 65, Schedule F

Part E – Summary of Facts

The Appellant applied for a supplement in respect of funeral and cremation services on or about February 5, 2024. The Ministry subsequently requested banking information from the Appellant, which was provided by the Appellant's son.

Information Before the Ministry at Reconsideration

The information before the Ministry at the time of the Reconsideration Decision included:

- an undated Email Request for Funeral Services (the "Request"), setting out the details of the Deceased, including his date of birth, his date of death, and noting that the Appellant's son was the Deceased's next of kin;
- a series of bank statements from a joint account (the "Joint Account", held by the Appellant and the Deceased, from November 2023 through January 2024, showing the balance in the Joint Account fluctuating in that time from approximately \$15,000 to \$21,000;
- an account snapshot (the "Snapshot") of accounts in the name of the Appellant as at February 7, 2024 (very shortly after the date of death of the Deceased) including the Joint Account, which had a balance of \$15,264.00;
- the Appellant's Request for Reconsideration, dated February 27, 2024, which included:
 - the Snapshot, the Joint Account statements, and the Request;
 - an updated account snapshot of the Appellant's accounts as at February 27, 2024, showing that the Joint Account had a balance of just \$975.22;
 - a transaction history for the Joint Account for the period from February 7, 2024 to February 17, 2024, indicating the purchase of a bank draft in the amount of \$12,000.00 (the "Draft") on February 17, 2024;
 - an affidavit from the Appellant's daughter setting out that her husband had loaned \$40,000.00 by way of paying a sponsorship payment so that the Appellant's son and his family could immigrate to Canada;
 - that the Draft was used to pay down the sponsorship loan;
 - copy of the Draft; and
 - a letter from a social worker to the Ministry, dated February 11, 2024, setting out that the Appellant was unable to pay for funeral costs due to limited income and debts owed to the Appellant's family.

The Request for Reconsideration also referenced communications between the Ministry and the Appellant's son between February 5, 2024, when the Ministry received the Request and February 13, 2024 when the Ministry advised the Appellant's son that it was unable to assist with the funeral costs as a result of the Appellant having sufficient funds in the Joint Account to pay for the funeral costs.

The Appellant filed her Notice of Appeal on March 19, 2024. The Notice of Appeal included a statement that the decision was unfair and didn't consider evidence provided in the application for reconsideration.

Evidence After the Reconsideration Decision

Neither the Appellant nor the Ministry submitted any further evidence after the Reconsideration Decision but before the hearing of the Appeal.

The Hearing

In attendance at the hearing were the Appellant and the Appellant's son, who served as her advocate and also acted as a translator.

No representative from the Ministry was in attendance at the hearing of the appeal.

The Appellant

The Appellant stated that she and the Deceased had been on income assistance for ten years and struggled with expenses. The Appellant noted that she was still in mourning, having been married to the Deceased for 45 years.

The Appellant indicated that she and the Deceased had been saving their income assistance in order to pay off their debts and, as a result of having paid part of their debt, she no longer had the means to pay for a decent burial.

The Appellant described relying on income assistance for that and to cover her expenses. She noted that she had a number of health issues, including low bone density, which made her prone to broken bones. She again reiterated that she was mentally and psychologically unwell, being in mourning.

The Appellant indicated that she was not certain how much money was in the joint account but insisted that the money that was in the account was for the purpose of

repaying her daughter's husband and she was concerned about the impact the outstanding loan might have on her daughter's marriage. The Appellant confirmed that the Draft represented the first payment towards the loan. The Appellant indicated that her daughter's husband had wanted the loan paid in installments but did not specifically explain why there had been no previous instalments requested or paid from December 2018, when the \$40,000 was initially advanced, until the date of the Draft. The Appellant also confirmed that the \$40,000.00 advanced by her daughter's husband is still being held by the sponsorship group to which it was paid directly, because her son and his family have not yet come to Canada.

The Appellant indicated that the funeral costs of \$3,000.00 have been paid but that she still owes between \$5,000 and \$6,000 to the mosque and the graveyard.

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

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for a burial or cremation supplement because the Ministry was not satisfied that neither the estate of the Appellant's spouse nor the Appellant, the responsible person for the Deceased, had insufficient resources to pay for funeral costs as required by section 65(2) of the Regulation.

Positions of the Parties***Appellant***

The Appellant's position is that she is unable to cover the costs of her husband's funeral as a result of the debt owed to her daughter's husband.

Ministry

The Ministry's position, as set out in the Reconsideration Decision, is that the Appellant had sufficient resources to pay the funeral costs at the time of her spouse's death and at the time of the initial request.

Panel Decision

Section 65 of the Regulation authorizes the Ministry to pay for the necessary funeral costs for a deceased person in certain circumstances.

Funeral costs are defined as:

- intraprovincial transportation costs;
- services of a funeral provider, as defined in the [Cremation, Interment and Funeral Services Act](#); and
- cremation or burial of a deceased person's body or remains, including the cost of a casket or urn.

The Ministry did not dispute that the costs incurred by the Appellant were properly classified as funeral costs.

Likewise, the Ministry determined that, as the spouse of the Deceased, the Appellant was a “responsible person”, as defined in section 65 of the Regulation.

To be eligible for the supplement, however, the Ministry must be satisfied that neither the estate of the deceased person nor a responsible person has sufficient resources to pay for the funeral costs.

In the case of the Appellant, the Joint Account had a balance of \$15,264.00 in it on February 7, 2024, [REDACTED] after the Deceased’s date of death. The balance in the Joint Account fluctuated somewhat in the months prior to the Deceased’s death but was never less than \$15,000.00.

Although the Appellant’s evidence was that she needed to re-pay \$12,000.00 to her daughter’s husband, it is not clear why that repayment, the first and only repayment towards a \$40,000.00 advance, needed to be made almost immediately after the Deceased’s death, despite the advance having been made at least five years prior (in December 2018) and after the Ministry had initially denied the request for the funeral supplement.

In the circumstances, while there is clear evidence that the Appellant made a \$12,000.00 payment to her daughter’s husband on February 17, 2024, the Appellant’s explanation for the timing of this payment is problematic for this panel insofar as it being a debt that the Appellant was required to prioritize over the necessary funeral costs for the Deceased, particularly in view of the fact that the repayment was only made *after* the Ministry had denied the initial request for the supplement. Given the above and in view of the fact that the evidence indicates that, as at the date of the Deceased’s passing, the Appellant, as the responsible person, did have the resources to pay for the necessary funeral costs, this panel finds that the Ministry reasonably determined that the Appellant was not eligible for a supplement under section 65 of the Regulation.

The Appellant is not successful in this 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;
- (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, *Employment and Assistance Regulation*

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).

2024-0101

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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2024/04/10

Print Name

Susan Ferguson

Signature of Member

Date (Year/Month/Day)

2024/04/10

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2024/04/10