

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) Reconsideration Decision dated April 26, 2024, which denied the Appellant’s request for a cremation supplement for the Appellant’s spouse (the “Spouse”). Based on the bank balances that the Appellant had submitted to the Ministry with her cremation supplement application, , the Ministry was satisfied the Appellant had sufficient resources available to pay cremation costs.

Part D – Relevant Legislation

Employment and Assistance Regulation (the “Regulation”), Section 65 and Schedule F

A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below

Part E – Summary of Facts

The hearing took place on June 4, 2024, as a teleconference hearing.

The Appellant is not receiving income assistance or disability assistance.

According to the Reconsideration Decision, the evidence the Ministry had when it made the Decision included:

- On March 21, 2024, the Appellant contacted the Ministry to ask for assistance with funeral and cremation costs for the Spouse. The Ministry asked the Appellant to provide a copy of the Spouse’s last will and testament (the “Will”), two pieces of identification for the Spouse, and “*bank profiles*” for all accounts held by the Appellant and the Spouse, including bank statements covering the most recent 60 days statements for each;
- On March 26, 2024, the Appellant submitted the following documents:
 - Bank statements for the period between December 4, 2023 and February 23, 2024;
 - A bank statement with no identifying information such as names or account numbers; and,
 - Government of Canada identification and a British Columbia Drivers Licence/Services Card for the Spouse.
- On March 27, 2024, the Ministry contacted the Appellant by email requesting a copy of the Will and bank profiles for the Appellant and the Spouse. This request for documents was repeated in an “*intake appointment ... completed by telephone*” between the Ministry and the Appellant on March 28, 2024;
- On April 2, 2024, the Appellant provided copies of:
 - Identification for the Spouse;
 - A Will dated December 2010;
 - Bank statements for joint bank account in the name of the Appellant and the Spouse for the period from December 2023 through February 2024; and,
 - Bank statements at a different financial institution for an account in the name of the Appellant for the period between December 2023 through February 2024;
- A Request for Reconsideration, dated April 15, 2024, in which the Appellant wrote:
“Wrong information was given. Has all been clarified, and a few documents were missing that I was not aware I needed to provide. Those documents are attached to this email,

and I assume that it is understood I only signed the cremation documents not the payment arrangements”;

- Other documents included with the Request for Reconsideration included:
 - An undated, one-page copy of an insurance policy providing information about a “Benefit Plan” in the name of the Appellant (the “Insurance Benefit Plan”). The Insurance Benefit Plan says that the insurance is effective April 13, 2024, and includes coverage up to specified limits for basic employee life, accidental death and dismemberment, short and long term disability, and health and dental insurance coverage;
 - An undated one-page document provided by a financial institution titled “My Accounts” (the “First Financial Institution Bank Profile”). The First Financial Institution Bank Profile does not identify the name of the account holder and indicates that the following accounts exist:
 - An unlimited chequing account with seniors rebate with a balance of \$216.90 (besides which someone has hand written “*This is a joint account*”);
 - A savings account with a balance of \$5.50;
 - A credit card with a balance of \$2,680.01;
 - Loans and mortgages totalling \$3,013.50;
 - A registered retirement savings plans with a balance of \$5.00; and,
 - A daily interest savings account with a \$0 balance;
 - An untitled, undated two-page document provided by a different financial institution (the “Second Financial Institution Bank Profile”) identifying:
 - A chequing account in the name of the Appellant with a balance of \$3,587.96;
 - A chequing account identified by three initials in the amount of \$7,209.32 (someone has hand written “*work funds are not available*” beside this account);
 - A credit card balance for an unidentified credit card holder showing a balance of \$19,108.18; and,
 - A line of credit balance for an unidentified person showing a balance of \$8,732.14;

- A one-page document showing copies of the Spouse’s birth certificate card and drivers licence. This document also includes a social insurance number written by hand;
- A four-page copy of the Will, signed, witnessed and dated December 31, 2010;
- Several copies of bank statements for accounts in the names of the Appellant, the Spouse, or accounts jointly held by the Appellant and the Spouse, at two different financial institutions, as follows:

Financial Institution	Account Holder	Number of Pages	Period Start and End Date	Opening and Closing Balance	Short Name
The First Financial Institution	The Appellant and the Spouse	Two	November 30, 2023 to December 29, 2023	\$1,955.42 and \$1,304.67	The “Joint December Bank Statement”
The First Financial Institution	The Appellant and the Spouse	Two	December 29, 2023 to January 31, 2024	\$1,304.67 and \$2,171.58	The “Joint January Bank Statement”
The First Financial Institution	The Appellant and the Spouse	Two	January 31, 2024 to February 29, 2024	\$2,171.58 and \$2,517.40	The “Joint February Bank Statement”
The First Financial Institution	The Appellant and the Spouse	Three	February 29, 2024 to March 28, 2024	\$2,517.40 and \$2,574.68	The “Joint March Bank Statement”
The Second Financial Institution	The Appellant	Three	December 1, 2023 to December 31, 2023	\$2,660.00 and \$2,964.55	The “Appellant’s December Bank Statement”
The Second Financial Institution	The Appellant	Three	January 1, 2024 to January 31, 2024	\$2,964.55 and \$1,828.40	The “Appellant’s January Bank Statement”
The Second Financial Institution	The Appellant	Three	February 1, 2024 to February 29, 2024	\$1,828.40 and \$2,131.09	The “Appellant’s February Bank Statement”
The Second Financial Institution	The Appellant	Three	March 1, 2024 to March 31, 2024	\$2,131.09 and \$3,091.38	The “Appellant’s March Bank Statement”

Evidence Presented at the Hearing

At the hearing, the Appellant said she had called the Ministry a couple of days after the Spouse passed away and left a message asking for a call-back. Someone from the Ministry then called the Appellant back to book an appointment regarding the Appellant’s cremation supplement request, and told her that she would have to bring a copy of the

Will, two pieces of the Spouse's identification and copies of bank statements for any accounts in the name of the Appellant, the Spouse or any bank accounts jointly held.

A couple of days after the Spouse passed away, the Appellant went to the two banks where she and the Spouse had accounts to get copies of the bank statements. She was given three months of statements for all of the bank accounts covering the period from December 2023 through the end of February 2024. The March 2024 statements were not ready at that point. After providing the bank statements to the Ministry, the Appellant was told by the Ministry she would have to provide the statements for March 2024 as well.

The Appellant expressed frustration with the Ministry because they "*kept asking for new documents*". It was a difficult time for the Appellant because she had just lost her husband. She said it wasn't until nine days after the Spouse had passed away that she able to arrange an appointment with the Ministry, which she thought was unacceptable under the circumstances. In addition to the March 2024 bank statements, the Ministry said it also needed "*bank profiles*". The Appellant said she didn't know what a bank profile was, and was told by the Ministry that the bank would provide them on request because the bank would know what they were.

The Appellant explained that there were a total of four bank accounts at the two banks in the name of the Appellant or the Spouse, one of which was in both of their names. The Appellant said that the total funds in all of the accounts combined ranged between about \$3,000 and \$4,000 on average over the three month period from January through March 2024, and the account at one bank solely in the name of the Spouse had a balance of about \$750.

The Appellant also said that the chequing account identified by three initials showing a balance of \$7,209.32 on the Second Financial Institution Bank Profile was a business account (the "Business Account"). She explained that she had a job at a grocery store and the Insurance Benefit Plan was life and disability insurance in her name associated with that work. She confirmed that the Spouse did not have any life insurance, she said she had also started a small cleaning business when the Spouse was no longer able to work after he went into palliative care four years ago. The funds in the Business Account were not available personal resources because she has two employees who were paid from that account, and that there were also GST and other business-related expenses paid from that account.

The panel referred to information in the Reconsideration Decision about an April 3, 2024 telephone conversation between the Ministry and the funeral home, in which someone from the funeral home said the Appellant had signed a contract agreeing to pay approximately \$6,000 for funeral services. The panel asked if that was true. The Appellant said that there was a document outlining some funeral options that identified a cost of up

to \$6,000, but she has not signed a contract to commit to that price. The Appellant said that the person from the funeral home with whom the Ministry spoke was a new employee and had not provided accurate information. She said that no final commitment on the specific funeral services and related costs had been made, so she still didn't know what the total cost would be. The Ministry confirmed that since the Reconsideration Decision was made it had received new information and was now satisfied that no contract had been signed.

In response to another question from the panel the Appellant said she had not yet applied for the Canada Pension Plan (CPP) \$2,500 death benefit to which she assumed she was entitled to as a CPP pensioner.

At the hearing, the Ministry relied on its Reconsideration Decision. The Ministry explained that the legislation permitting the Ministry to provide a burial or cremation supplement requires that the Ministry identify all of the "*available assets*" of the deceased and any other "*responsible person*" (in this case, the Appellant). The Ministry said it didn't receive the bank profile information until just before the Reconsideration Decision was made, and didn't know about the Business Account until it received the bank profiles. The Ministry also said that it had received no other information or written evidence confirming what that account was for.

The panel referred to information in the Reconsideration Decision that identified the maximum amounts the Ministry could provide as a burial or cremation supplement for the various components comprising funeral costs. The information is identified as a "*Ministry Rate Table – Funeral costs*" in the Reconsideration Decision (the "*Rate Table*"). It includes maximum amounts for transportation fees, which are not at issue in this appeal, the funeral provider's "*basic fee*" (up to \$1,285), "*other items or service fee*" (up to \$815), and the "*cost of urn*" (up to \$200). The total of these items, excluding transportation fees, is \$2,300. The Ministry confirmed that the maximum amounts provided in this rate table are found in the Ministry's policy manual, and that most of these amounts were not specified in the legislation.

In response to a question from the panel the Ministry said that anyone who receive a burial or cremation supplement who is also entitled to the CPP death benefit must agree to have the Ministry apply for the applicant's CPP death benefit, and any amount of CPP death benefit to which the supplement recipient is entitled is clawed-back by the Ministry as an offset against the amount of the supplement provided. As the CPP death benefit is \$2,500, this means that if the Appellant qualified for the CPP death benefit, and if she had been provided with a cremation supplement at the maximum amount of \$2,300, the Ministry confirmed that the full amount of the cremation supplement would have to be recovered by the Ministry, and the Appellant would have received any additional amount (\$200 in this case), directly from the CPP.

In response to another question from the panel, the Ministry said that if it had been made aware before the Reconsideration Decision that the Business Account was used by the Appellant for her small business operations it might or might not have determined that it should not have been considered in determining the Appellant's available assets, but *"would probably have prompted additional questions"*.

Additional Information Submitted After Reconsideration and Admissibility

In the Notice of Appeal, the Appellant has written *"This process has been awful. I have tried to provide the correct information but it continually changes. I hope that a conversation can clear up the issues."*

Section 22(4) of the *Employment and Assistance Act* says that a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must consider if the new information is relevant to the decision. If a panel determines that any new evidence can be admitted, it must decide if the decision was reasonable considering the new information.

The panel finds that there is no new evidence in the Notice of Appeal.

New verbal evidence provided by the Appellant at the hearing was that the chequing account identified by three initials with a balance of \$7,209.32 was her Business Account and as such did not represent her personal financial assets. The panel admits this new evidence as it is relevant to the decision. However, the panel assigns this new verbal information little weight because no written evidence has been presented by the Appellant to confirm that this is the case, or to show what proportion of the funds in the account, if any, represent business-related net income. Other new information provided by the Appellant at the hearing was that the Appellant had not signed contract with the funeral home committing her to pay \$6,000 for funeral services. The panel also admits this new evidence as it is relevant to the decision, and gives it full weight as the Ministry has also acknowledged that it is satisfied that this is the case.

New verbal evidence provided by the Ministry at the hearing was that the maximum cremation supplement amounts appearing in the Rate Table are for the most part taken from the Ministry's policy manual, and must be recovered from any CPP death benefit to which a surviving spouse might be entitled. The panel admits this new evidence as it is relevant to the decision, and gives this new evidence full weight.

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision that the Appellant was not entitled to a cremation supplement was reasonably supported by the evidence, or a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position

The Appellant's position is that she should receive a cremation supplement because she does not have the resources to cover the funeral costs, and that the Ministry is mistaken in taking into account the funds in the Business Account as part of her available resources. In addition, the Appellant feels that the Ministry took far too long to arrange to meet with her to go over her application for the cremation benefit, and that the information she was initially asked to provide was not accurate or complete, causing her additional stress at a very difficult time.

Ministry's Position

The Ministry's position is that the Appellant does not qualify for a cremation supplement because, based on the bank balances as submitted by the Appellant, the Ministry is satisfied she has sufficient resources available to pay cremation costs, which are typically between \$3,000 and \$4,000 dollars.

Panel Decision

Section 65(2) of the Regulation says that if neither the estate of a deceased person nor any responsible person has the resources available to pay for specified funeral, burial or cremation costs when payable, the minister may provide a supplement.

Schedule F of the Regulation identifies what types of funeral costs may be covered, and sets some limits as to the amounts that may be covered for each type of service. For example, Section 5(1)(e) of Schedule F says that the cost of an urn might be covered up to a maximum amount of \$200. The Regulation does not impose maximum limits on other listed funeral services that are covered in the Regulation, such as cremation fees for example. Limits to the amounts that may be provided for cremation fees and other related funeral services are set out in Ministry policy, which, the panel notes, differs from the legislative text in Section 5 of Schedule F of the Regulation where no such limitations are given. The role of the panel is to consider whether the legislation has been applied in a reasonable manner and this decision will therefore be based on the wording of the legislation as opposed to Ministry policy.

The panel notes that the Ministry's practice in determining "*the resources available to pay*" funeral costs take into account liquid assets that the estate or surviving "*responsible person*" (defined in the legislation as the deceased person's spouse in this case) might have

at points of time on or just before a person dies. But the Ministry does not consider current liabilities, such as the regular monthly costs associated with rent or mortgage payments, loan or minimum credit card payments, etc.

The panel also notes that there is a lot of verbal information in this case that cannot be confirmed from the available written evidence. For example, it has not been demonstrated that the Business Account, or at least a portion of the funds in the Business Account, should be included in available resources, as no statements and/or breakdowns have been provided. There was a lack of information from the Appellant regarding the financial health of the business, which may or may not have affected the income of the Appellant and confirm the resources available to her. Similarly, no information has been provided to identify liabilities included in the account balance, such as the amount of pay earned by the two employees in the business or the business's GST obligations, for example.

In addition, the panel notes that there is nothing in writing to indicate the amount of the expected funeral-related costs. The Reconsideration Decision says that the funeral home indicated in a telephone conversation that it might be \$6,000, but there is nothing in writing to confirm this and both parties acknowledge that there is no contract under which the total cost is identified. The Ministry says in the Reconsideration Decision that cremation costs *"are typically between \$3,000 and \$4,000"*.

Because neither the available resources nor the total related funeral costs are known, the panel finds that it is not possible to determine whether the resource test requirements for a cremation supplement as set out in Section 65(2) of the Regulation have been met.

The panel also notes that, should the Appellant qualify for the CPP death benefit of \$2,500, she would not have received any financial assistance from the Ministry had she been approved for a cremation supplement at the maximum amounts set out in the Rate Table as the Ministry would have fully recovered that amount from the CPP.

Conclusion

Having considered all the evidence, the panel finds that the Ministry's Reconsideration Decision, which denied the Appellant's request for a cremation supplement for the Spouse, was reasonably supported by the available evidence. Accordingly, the panel confirms the Ministry's decision, and the Appellant is not successful in her appeal.

The panel sympathizes with the Appellant in these circumstances. In particular, the available evidence indicates that the Ministry did not provide the Appellant with a clear and complete account of the financial information it required to assess the Appellant for cremation supplement eligibility. In addition, it appears that the Ministry might have lacked empathy and compassion in its dealings with the Appellant at a challenging time.

The panel also notes that *Employment and Assistance Act* permits individuals to reapply for this type of supplement if there is a change in circumstances, such as when the cremation costs are fully known, for example.

Schedule of Legislation

EMPLOYMENT AND ASSISTANCE REGULATION

Burial or cremation supplements

65 (1) In this section:

... **"funeral costs"** means the costs of the following items, as set out in Schedule F:

... (b) services of a funeral provider, as defined in the *Cremation, Interment and Funeral Services Act*;

(c) cremation ... of a deceased person's body or remains, including the cost of a ... urn;

...

"responsible person", with respect to a deceased person, means,

(a) a spouse of the person ...

(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 ... cremation is to take place or has taken place in British Columbia ...

(3) For the purposes of subsection (2), funeral 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.

(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 ...

(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

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 ...
- (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:

- ... (b) completion and filing of the registration of death;
- (c) obtaining a ... 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 ... cremation, including basic sanitary care ...
- (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 ...

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).

[Provisions relevant to the enactment of this regulation: *Employment and Assistance Act*, S.B.C. 2002, c. 40, ss. 13 (3), 17 (5), 35, ... 37 ...]

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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
Simon Clews

Signature of Chair

Date (Year/Month/Day)
2024/06/04

Print Name
Rick Bizarro

Signature of Membe

Date (Year/Month/Day)
2024/06/04

Print Name
Mary Chell

Signature of Member

Date (Year/Month/Day)
2024-06-08