

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“Ministry”) reconsideration decision dated August 14, 2024, which held that the Appellant, who is acting on behalf of the deceased, was not eligible for funds for reimbursement of burial or cremation costs pursuant to Section 65 of the Employment and Assistance Regulation (“Regulation”).

Specifically, the Ministry found that the Appellant did not need prior approval for the funding as the deceased died in BC, and that as the son of the deceased, he is not a responsible party for the costs. However, the Ministry also found that the evidence does not establish that:

- The deceased did not have the resources to pay for the burial or cremation costs.

Part D – Relevant Legislation

Employment and Assistance Regulation - section 65.

(Relevant Legislation follows decision in Appendix A)

Part E – Summary of Facts**Evidence At Reconsideration**

- The Funeral Services & Crematorium receipt shows the amount paid for the total services was \$2594.35 and was paid in full with no balance remaining.
- The Certificate of Death reports date of death May 23, 2024, location was in BC, place of residence was in BC, and birthplace of deceases as BC.
- The Certificate of Cremation reports the date of death as May 23, 2024 and date of cremation as June 1, 2024.
- The disposition permit/acknowledgement of registration of death, reports the deceased died in BC on May 23, 2024 at 64 years old and the death was registered with vital statistics on May 29, 2024.
- The July 6, 2024 Canada Pension Plan death benefit denial letter reports the deceased did not meet the eligibility criteria for the CPP death benefit because the deceased had not contributed to CPP for at least 10 years
- Request for Reconsideration dated July 30, 2024 which stated that the costs of the cremation have created a grave financial hardship for the Appellant, he already had to let the BC government take ownership of the deceased's \$50,000 mobile home as he did not have \$30,000 to bring it up to code to rent or sell, he had assumed the Ministry would tell him if the deceased did not qualify for the federal death benefit, and he felt obligated to pay the cremation costs. The Appellant also stated that had he known that the deceased did not qualify, he would have had the Ministry pay right after the cremation.

Evidence At Appeal

A Notice of Appeal dated August 22, 2024 which stated that "I never received any grant money that the Ministry claims. I was also denied access at [the deceased] bank to provide [that the deceased] financial statements. The Ministry report is erroneous".

The Panel considers the information in the Notice of Appeal as argument and admitted it as such.

Evidence Prior to the Hearing

Prior to the hearing, the Appellant submitted an email with the following information:

- The deceased's bank refused to release any information to the Appellant as he is not the executor and does not have the privilege to access the deceased's personal banking information.
- The bank can only release information to the government if requested.
- The account was frozen and only had less than \$400.00 in it.

- The Appellant did not receive money from the funeral home in the form of a grant and did not receive funding from the Canada Death Benefit.
- There is a letter from the federal government confirming that the \$2, 500 death benefit was denied.
- The reason for not applying for both Federal and Provincial assistance was because the Funeral Home already submitted the Federal application and the Appellant was concerned about Fraud for applying for two different programs to cover the cost.
- If the Appellant knew that an application could be made for both types of funding, he would have applied.

The Panel considers the information in the email as argument and admitted it as such.

Evidence At the Hearing

At the hearing, the Appellant reiterated the statements from his Request for Reconsideration and submission. He also added, in part, the following:

- The Ministry suggested that he received funding from the funeral home but he did not and this is shown in the invoice from the funeral home.
- He did not want to commit fraud by applying for the CPP death benefit and benefits from the Ministry.
- He did the right thing to pay for the cremation costs but thinks if he did not, he would not be in this situation.
- The deceased owes \$1000.00 in property taxes.
- He is certain that the province (the Public Trustee) will be taking over as executor of the estate.
- He is not looking for special treatment but just what everyone else would get in this circumstance.
- The \$2594.35 he paid the funeral home included the cost of the death certificate.
- The deceased did not leave a will so the Public Trustee takes over.
- The mobile home park will decommission the deceased mobile home because it is in disrepair.

At the Hearing, the Ministry relied on its reconsideration decision. The Ministry added the following when asked:

- There is no predetermined amount of funding the Ministry will pay for cremation costs. Each circumstance is evaluated on its own merit.
- The Ministry does have the ability to recover funeral expenses from the Public Trustee and can collaborate with the Public Trustee.
- It is not legislatively required that one needs pre-approval for funding for funeral costs. It is Ministry policy.

- In this case, there is no responsible party.
- It is Ministry policy that reimbursements are not issued for funeral costs.

Part F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry was reasonable in its determination that the Appellant was not eligible for funds for reimbursement of burial or cremation costs because the evidence did not establish that the deceased did not have the resources to pay for the burial or cremation costs.

The Appellant Position

The Appellant argued that the deceased's estate does not have resources to cover the costs of the cremation but he cannot access the estate information to provide proof of this as he is not the executor.

The Ministry's Position

The Ministry argued that it is unable to make an informed decision as to if the estate had resources available to pay necessary funeral costs as no evidence was provided in this respect.

The Panel's Decision**Finding of Fact**

- Pursuant to the legislation, the Appellant is not a responsible person as he is not a spouse or parent of the deceased.
- Prior approval of the funeral costs is not required by legislation and is not an issue at this appeal.
- The evidence establishes that the Appellant did not receive funding for cremation costs from either the funeral home or CPP death benefits.
- Since the deceased did not leave a will, the Appellant would not have access to the deceased's banking information.

Section 65(2) of Regulation states that if the deceased or a responsible person does not have the resources to pay, the Ministry can provide a specified amount of funds for cremation if: a) (ii) the burial or cremation is to take place or has taken place in BC. In this case, the evidence establishes that the cremation did take place in BC. The Appellant stated that he could not access the deceased's financial statements and could not provide any evidence to demonstrate that the deceased did not have the resources to pay for the cremation costs.

In this case, the Ministry has requested information from an individual who legally cannot provide it. The Panel is uncertain why the Ministry cannot directly contact the Public Trustee to resolve the matter as it appears the Appellant is caught between two branches

of the Provincial Government. The Panel empathizes with the Appellant's situation but does not have the authority or jurisdiction to overrule legislation.

In the case of the Appellant, the evidence that is available for this appeal supports the Ministry's decision that it cannot be determined whether the deceased had resources to cover the costs of cremation. The Panel finds that the Ministry's decision that the criterion of section 65(2)(a) was not met was reasonable.

Conclusion

The Panel finds that the evidence establishes that the Ministry was reasonable in its determination that all of the criteria set out in Section 65 of the Regulation were not met. As a result, the Panel finds that the Ministry's decision to deny the Appellant's request for funds for reimbursement of cremation costs was a reasonable application of the legislation and was reasonably supported by the evidence. The Panel confirms the Ministry's decision. The Appellant is not successful at appeal.

Appendix A

Burial or cremation supplements

65 (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;

2024-0323

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

Neena Keram

Signature of Chair

Date: 2024/09/09

Print Name

Kevin Ash

Signature of Member

Date: 2024/09/09

Print Name

Julie Iuvancigh

Signature of Member

Date: 2024/09/09