

PART C – Decision under Appeal

The decision under appeal is the ministry's Reconsideration Decision dated 09 February 2012 which denied the appellant's request for funding for speech therapy because speech therapy is not included as a type of therapy that may be funded under the Employment and Assistance for Persons with Disabilities Regulation, section 62(1) and Schedule C, section 2(1) (c).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62 and Schedule C,

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

- A letter to the ministry dated 03 November 2011 from a licensed speech language pathologist (SLP) in support of the appellant's request for funding for speech therapy. The SPL writes that the appellant had been receiving funding for speech therapy through the Ministry of Children and Family Development for many years. This entailed approximately 24 speech therapy sessions every six months. This funding stopped at the end of October 2011 as the appellant turned 18 years of age that month. The appellant has been making very good progress therapy but she continues to need support in this area. She is a multiply handicapped student. Her diagnosis is as follows: cerebral palsy, degenerative lenkodystrophy, seizure disorder, apraxia of speech development delays.
- The appellant's Request for Reconsideration dated 27 January 2012. In the request the appellant's sister writes that the appellant was born with lifelong disability and has many communications challenges. She has had speech therapy since she was a young kid to be able to communicate her basic needs. She has benefited greatly from speech therapy and continues to need it. She does not have any source of income and her mother, her primary caregiver, cannot afford the cost of speech therapy. The sister states that discontinuing the speech therapy will have very negative consequences for the appellant's health and well-being and future language and life skills success depends on her continuing speech therapy.
- The appellant has PWD designation and is in receipt of disability assistance.

In her Notice of Appeal dated 19 February 2012, the appellant states that the denial of speech therapy will have very negative consequences on her health and well-being, as she will not be able to continue her progress to achieve more independent life skills and basic educational skills. She will lose her confidence and forget the vocabulary she gained over the years.

After reconsideration but before the hearing, the appellant's sister submitted, under cover of a letter dated 07 March 2012 urging the continuation of the appellant's speech therapy to retain what she has learned and to continue her progress to be able to be self sufficient, the following documents:

- A medical report dated 06 March 2012 from the appellant's physician. He states that the appellant has been his patient since 2001 and is presently under his care. The physician writes that the appellant suffers from cerebral palsy and has a moderate mental handicap. She has been receiving speech therapy for speech delay and has been improving in her speech. She has been seen by an otolaryngologist who also suggests that she continue her speech therapy. The physician states that continued speech therapy for the appellant would greatly assist her in her ability to deal with an adult world.
- A copy of a letter dated 31 January 2012, attached to the above medical report, from a clinical associate professor of otolaryngology of an agency of the Provincial Health Services Authority. He reports on an examination of her ear health, and recommends another hearing test. He states that: "The only key for her will be hearing reassessment plus further speech therapy."

- A letter dated 06 March 2012 from a life skills worker who has worked with the appellant for over a year. She states that she can see the appellant's speech being one of the areas in which she lacks confidence and the worker witnesses how this affects other aspects of the appellant's development. For example she has observed the appellant's hesitancy to interact with people she does not know, due in part to her lack of self-confidence in the clarity of her speech. This causes concerns about her rights as an individual as well as safety concerns regarding her ability to communicate for herself in emergency situations. She strongly urges continued funding for the appellant speech therapy as long-term gains this will have for her are immeasurable.
- A letter dated 07 March 2012 from the clinical coordinator at a specialized learning Center. The clinical coordinator writes that the appellant has been participating in a life skills/skills for independence program at the Centre and has demonstrated improved academic, functional, and social skills as well as improved verbal communication skills over the past two years. The coordinator states that the appellant is a very fragile and anxious young lady and is far behind same-aged peers in terms of her knowledge and skill base. She has shown a strong desire to become more independent and social and with ongoing support has the potential to become a contributing member of society and community. In particular, continuing to receive speech therapy sessions would further increase her competence and hence increase her ability to successfully participate in social interactions. She has just begun to be able to initiate verbal interactions with others and to say more than one or two word answers. She is less anxious and is now eager to become involved in more discussions. Speech therapy remains critical to improving the appellant's functioning and hence, improving the quality of her life.

The panel finds that the new information provided by the appellant is in support of the information and records that were before the ministry at the time of reconsideration, as the information clarifies the medical and educational context of the appellant's request. The panel therefore admits the new information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

In an email dated 09 March 2012, the ministry stated that the ministry's submission is the reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry decision to deny the appellant's request for funding for speech therapy, because speech therapy is not included as a type of therapy that may be funded under the EAPWDR section 62(1) and Schedule C, section 2(1)(c), was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation from the EAPWDR is set out below:

General health supplements

62 (1) Subject to subsections (1.1) and (1.2), the minister may provide any health supplement set out in section 2 [general health supplements] or 3 [medical equipment and devices] of Schedule C to or for a family unit if the health supplement is provided to or for a person in the family unit who is

- (a) a recipient of disability assistance,

Schedule C

General health supplements

2 (1) The following are the health supplements that may be paid for by the minister if provided to a family unit that is eligible under section 62 [general health supplements] of this regulation:

- (c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,

- (i) for which a medical practitioner or nurse practitioner has confirmed an acute need,
- (ii) if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and
- (iii) for which there are no resources available to the family unit to cover the cost:

Item	Service	Provided by	Registered with
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the <i>Health Professions Act</i>
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i>
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <i>Health Professions Act</i>

4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the <i>Health Professions Act</i>
5	non-surgical podiatry	podiatrist	College of Podiatric Surgeons of British Columbia under the <i>Health Professions Act</i>
6	physiotherapy	physiotherapist	College of Physical Therapists of British Columbia under the <i>Health Professions Act</i>

As the appellant is in receipt of disability assistance, the ministry determined that she is eligible for the general health supplements listed in Schedule C. The position of the ministry is that Section 2(1) of Schedule C lists the only general health supplement therapies that may be provided (acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry and physiotherapy). As speech therapy is not included as a type of therapy that may be funded, there is no regulatory authority to provide it.

The position of the appellant is that she received funding for her speech therapy from the Ministry of Children and Family Development until she turned 18 years of age. There is compelling evidence from her medical and education professionals that she needs to continue her speech therapy as a person with disabilities into early adulthood for her social development to be successful; and for her to be able to continue with the therapy, she requires financial assistance from the ministry.

The evidence from the appellant's medical and education professionals is that she would greatly benefit from continued speech therapy. However, the panel finds that the legislation provides the ministry no discretionary authority to fund therapies other than those listed in section 2(1) of Schedule C of the EAPWDR. As speech therapy is not included in that list, the panel therefore finds the ministry decision is a reasonable application of the legislation in the circumstances of the appellant and thus confirms the ministry decision.