

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 14, 2012 which denied the appellant's request for a supplement to cover the cost of extended massage therapy visits. The ministry found that the request for a health supplement does not meet the legislated requirement of Schedule C, Section 2(1)(c)(i) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) as a medical practitioner or a nurse practitioner has not confirmed an acute need for massage therapy.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 62, and Schedule C, Section 2

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Note dated June 22, 2012 from a physician stating in part that the appellant needs massage therapy times 12 more sessions, chronic back/shoulders;
- 2) Statement of Account dated June 25, 2012 from a physiotherapy and pain clinic to the appellant outlining service dates and charges for 11 sessions of massage therapy services in 2012;
- 3) Extended Statement dated June 25, 2012 from a chiropractic company to the appellant detailing service dates and charges for 5 sessions of chiropractic services in 2012;
- 4) Letter dated July 13, 2012 from the ministry to the appellant denying her request for a supplement to cover the cost of extended massage therapy visits and enclosing a copy of the Decision Summary;
- 5) Note stamped received August 7, 2012 from a physiotherapy and pain clinic 'To Whom It May Concern' stating in part that the appellant suffers from ongoing left arm radiculopathy due to neck compression; she would greatly benefit from continued massage therapy treatment; and,
- 6) Request for Reconsideration- Reasons.

The appellant did not attend the hearing. After confirming that the appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation. Although the ministry requested that an observer attend the hearing for training purposes, as the panel was not able to secure the appellant's consent it did not permit the attendance of the ministry observer.

In her Request for Reconsideration, the appellant states that she requires more visits for massage because she has had bad posture for a long time and this has caused pinched nerves in her neck and shoulders. The appellant states that she got some massage visits to relieve the numbness in her fingers which caused her to struggle with everyday things like holding objects. The appellant requests more massage visits to help relieve her discomfort; with extra visits and stretches her condition will get better. The appellant states that waiting until January for more visits is a long time and her massage therapist believes she will benefit greatly from extra visits. In her Notice of Appeal, the appellant adds that she is getting older and her posture is making her nerves pinch. The appellant states that although the ministry did not like her writing "a long time", it did not use to be a problem and "...getting old sucks." The appellant states that she is a Person With Disabilities (PWD) and she is suffering with numbness in her fingers and it is good that she is right-handed because she can still write. The appellant states that her massage therapist says her condition will get worse and she could have numbness on both sides of her body.

The ministry's evidence is that, as a recipient of disability assistance, the appellant is eligible to receive health supplements. The appellant requested 12 additional massage therapy visits and her massage therapist submits that the appellant suffers from ongoing left arm radiculopathy due to neck compression and that the appellant would greatly benefit from continued massage therapy. The appellant's physician indicates that the appellant needs massage therapy due to chronic back/shoulder pain. The appellant has provided account statements indicating that she has exhausted her 10 basic MSP (Medical Services Plan) therapy visits for 2012.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost of extended massage therapy visits as the request for a health supplement does not meet the legislated requirement of Schedule C, Section 2(1)(c)(i) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), was a reasonable application of the applicable legislation in the circumstances of the appellant, or was reasonably supported by the evidence.

Under Section 62 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), the applicant must be a recipient of disability assistance, be a person with disabilities, or be a dependent of a person with disabilities. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that the person's family unit must meet in order to qualify for specified general health supplements.

In this case, the requirements of Schedule C, Section 2(1)(c)(i), which apply to therapy services, are at issue, as follows:

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>

The appellant's position is that she has exhausted her 10 basic MSP therapy visits for 2012 but that she requires further massage therapy sessions to relieve the symptoms from pinched nerves in her neck and shoulders, including numbness in her fingers. The appellant argues that she is a PWD and the numbness in

her fingers makes her struggle to do everyday things like holding objects. The appellant argues that waiting until January for more visits is a long time and her massage therapist believes she will benefit greatly from extra visits and that her condition will get worse and she could have numbness on both sides of her body.

The ministry's position is that the appellant, as a recipient of disability assistance, is eligible to receive health supplements under Section 62 of the EAPWDR, but that the appellant's request for a supplement to cover the cost of extended massage therapy visits does not meet the requirement specified in Schedule C, Section 2(1)(c)(i) of the EAPWDR. In particular, the regulation requires that a medical practitioner or nurse practitioner has confirmed an acute need for the massage therapy. The ministry argues that the appellant's physician outlines "chronic back/shoulder pain", the massage therapist indicates "ongoing left arm radiculopathy," and the appellant states she has had posture problems for "a long time", and this information does not confirm an acute need for extended massage therapy visits. At the hearing, the ministry provided a definition of 'acute' as being characterized by sharpness or severity, having a sudden onset or sharp rise and short course, and requiring short-term medical care.

The panel finds that it is not disputed that the appellant, as a recipient of disability assistance, is eligible to receive health supplements under Section 62 of the EAPWDR. The appellant argues that her massage therapist has recommended additional massage therapy visits to relieve her symptoms resulting from a pinched nerve in her neck and shoulders, however, the panel finds that the ministry reasonably determined that a medical practitioner has not confirmed an acute need for extended massage therapy visits, which is a requirement of Section 2(1)(c)(i) of Schedule C of the EAPWDR. The Note dated June 22, 2012 from the appellant's physician indicates that the appellant needs extended massage therapy to treat "chronic" back/shoulders, whereas the definition of 'acute' indicates a sudden onset and a short course. Although the appellant's massage therapist indicates the appellant would greatly benefit from continued massage therapy treatment, the panel finds that the massage therapist also refers to the appellant's condition as "ongoing" and that the ministry reasonably concluded that the appellant's request did not meet the requirements of Section 2(1)(c) of Schedule C of the EAPWDR.

The panel finds that the ministry's decision was reasonably supported by the evidence and confirms the decision.