

PART C – Decision under Appeal

In a reconsideration decision dated 7 December 2012, the Ministry denied the Appellant's request for a medical transportation supplement because it determined the appointment to a registered psychologist did not meet the legislated definition of a specialist. Furthermore the Ministry determined the request is not eligible under any other categories for medical transportation as set out in Employment and Assistance for Persons with Disabilities Regulation, Schedule C, Section 2(f).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA) Section 5

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 62(1)

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, Section 2(1)(f)

PART E – Summary of Facts

The Appellant was represented by an Advocate who submitted a letter from the Appellant's psychiatrist dated January 16, 2013. The letter confirms the medical transportation request was to attend a neuropsychological evaluation that was medically necessary for the Appellant's rehabilitation. The Advocate also submitted a 3 page printout detailing the characteristics of a frontal lobe injury. The Ministry did not object to the letter or the printout. The Panel found the letter and the printout are in support of the information before the Ministry at the time of the reconsideration decision and admits both as evidence under the Employment and Assistance Act, Section 22(4)(b).

The evidence before the Ministry at the time of the reconsideration decision included:

- A request from the Appellant for non-local medical transportation dated October 4, 2012.
- A letter from the Appellant's psychologist dated October 4 2012 confirming the Appellant's appointment on October 22 and October 23 in the hospital at a non- local location and that the Appellant was referred for a neuropsychological assessment by the Appellant's psychiatrist.
- A letter dated October 23, 2012 from the Appellant's psychologist confirming the referral for a neuropsychological assessment from the Appellant's psychiatrist, that there are no services to provide this assessment in the Appellant's local area and that the Appellant did attend both scheduled appointments and had to stay overnight at the non – local location to attend the second appointment.
- A letter dated November 14, 2012 from the Appellant's psychiatrist confirming his referral to the non-local psychologist for an assessment. The letter also confirms the Appellant attended both appointments at the non-local hospital and stayed overnight to enable him to do so.
- A copy of a series of emails from the Appellant's mental health worker regarding the Ministry's guidelines for funding medical transportation.

In the Notice of Appeal the Appellant states he has a brain injury and was requested by his doctor to have a neuropsychological evaluation that was only available in a non-local location.

In the Request for Reconsideration the Appellant states he was referred by his psychiatrist for an assessment in the non- local location for his brain injury. He says this assessment is to help determine his cognitive functional limitations to establish his future possibilities. He notes he also receives counseling within his local area.

The Ministry states the Appellant is designated as a Person with Disabilities and is eligible to receive general health supplements under Schedule C, section 2 of the EAPWDR. The Ministry determined the Appellant has no resources available to cover the cost of medical transportation. The Ministry also determined a registered psychologist does not meet the legislated definition of a specialist. Furthermore, the Ministry determined the request is not for transportation to or from an office in a local area, or to the nearest suitable general hospital or rehabilitation hospital as defined to receive a benefit under the Medicare Protection Act, or a general hospital service under the Hospital Insurance Act.

At the hearing the Advocate stated the Appellant has been receiving services from Mental Health for the past 4 years. She explained the Appellant has a frontal lobe brain injury from an accident and that this type of injury affects behavior, including but not limited to poor decision making and increased risk taking. She stated the neuropsychological testing was a necessary step in planning the

Appellant's rehabilitation and future potential of reentering the workplace. She confirmed that this testing was not available in the local community and was ordered by the Appellant's psychiatrist.

The Advocate explained that the Appellant managed to get to the first appointment with a ride from a friend and returned the next day from the non-local hospital by a subsidized bus system that transports those needing transportation to medical appointments between the two communities once a week. She explained that the two days of evaluation made it impossible for the Appellant to use the bus system both ways. The Appellant paid \$67.41 for overnight accommodation and borrowed money from his father for meals while away.

At the hearing the Ministry confirmed the date on the cover letter of the reconsideration decision (August 27, 2012) was incorrect and the decision was completed during the month of December, 2012. The Ministry also confirmed the request was denied because the psychologist that the medical practitioner referred to complete the neuropsychological evaluation is not recognized as a specialist in the field of medicine or surgery in accordance with the bylaws made by the board of the College of Physicians and Surgeons of British Columbia under section 19(1)(k.3) and (k.4) of the Health Professions Act.

The Panel finds from the evidence presented that:

- the Appellant is a recipient of assistance with PWD designation and as such is eligible for health supplements,
- a medical practitioner referred the Appellant to a psychologist for neuropsychological evaluation,
- the Appellant attended two appointments on October 22 and 23, 2012 with the referred psychologist at the rehabilitation services in a non-local hospital by utilizing a medical transportation bus system and a friend.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request for a medical transportation supplement. The criteria for these supplements is set out in the EAPWDR, Section 62 (1) and Schedule C, Definitions, and Section 2(f) as follows:

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 (B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(a) a recipient of disability assistance,

Schedule C, Definitions:

"specialist" means a medical practitioner recognized as a specialist in a field of medicine or surgery in accordance with the bylaws made by the board for the College of Physicians and Surgeons of British Columbia under section 19 (1) (k.3) and (k.4) of the Health Professions Act.

Section 2(1) (f) the least expensive appropriate mode of transportation to or from

(i) an office, in the local area, of a medical practitioner or nurse practitioner

(ii) the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist in that field by a local medical practitioner or nurse practitioner,

(iii) the nearest suitable general hospital or rehabilitation hospital, as those facilities are defined in section 1.1 of the Hospital Insurance Act Regulations, or

(iv) the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the Hospital Insurance Act,

provided that

(v) the transportation is to enable the person to receive a benefit under the Medicare Protection Act or a general hospital service under the Hospital Insurance Act, and

(vi) there are no resources available to the person's family unit to cover the cost.

The Ministry argues a registered psychologist does not meet the legislated definition of a specialist as defined in Schedule C and therefore the request is not eligible under EAPWDR, Section 2(1)(f)(ii). The Ministry also argues the request is not eligible under Section 2(1)(f)(i) because the request is not to a local office and it is not eligible under Section 2(1)(f)(iii) or (iv) because the request is not for

transportation to the nearest general hospital or rehabilitation hospital.

The Appellant argues his medical practitioner referred him for testing to the psychologist in a non-local hospital and that the treatment was not available locally.

The definition of a specialist within the EAPWDR is limited to those specified as in a field of medicine or surgery in accordance with the bylaws made by the board for the College of Physicians and Surgeons of British Columbia under section 19 (1) (k.3) and (k.4) of the *Health Professions Act*. A registered psychologist is not within those parameters. As such the Panel finds the Ministry reasonably determined the request for medical transportation does not meet the criteria under EAPWDR, Schedule C, 2(1)(f)(ii).

In this case the Appellant's medical practitioner ordered a treatment consisting of a neuropsychological evaluation that was performed by a psychologist at the rehabilitation services in a non-local hospital and this test was not available in the local community. The legislation within Schedule C, 2(1) provides a supplement for the least expensive appropriate mode of transportation for any one criterion under 2(1)(f)(i) through (iv). As such, the Panel finds the criteria under EAPWDR, Schedule C, 2(1)(f)(iii) was met and the Ministry's denial of the request for transportation services was not reasonable.

The Panel finds for the Appellant and rescinds the decision.