

**PART C – Decision under Appeal**

The decision under appeal is the Ministry's reconsideration decision dated June 12, 2013, finding the Appellant does not qualify to have medical costs re-imbursed due to the fact that his file was closed at the time the costs were incurred.

**PART D – Relevant Legislation**

The relevant legislation is sections 23, 61.1, 62, and 63 of the EAPWDR.

**PART E – Summary of Facts**

The Appellant was in receipt of Disability Assistance (DA) until August 2012. He reached his 65<sup>th</sup> birthday in March 2012, at which time he became ineligible for DA, however his DA eligibility was extended to August pending the Appellant's submitting to the Ministry proof that he had applied for Old Age Security (OAS). Through some lack of communication or misunderstanding, the Appellant did not supply the Ministry with proof of his application for OAS, although he believed that he had, and his file "auto-closed" on October 19<sup>th</sup>, 2012.

The Appellant was not aware that the Ministry had not received proof of his application for OAS, nor that his file had been closed until March 15<sup>th</sup>, 2013. On that date the Appellant contacted the Ministry in order to ask for reimbursement of certain medical expenses that he had incurred after the closure of his file, namely: prescription costs of \$25 and \$250, and dental costs of \$556. This claim was made on the basis of the Appellant's understanding that he qualified for the Medical Services Only benefit (MSO). MSO provides qualified persons with payments for certain medical services for a prescribed period of time. In this instance, the Appellant was qualified to receive MSO for one year from the date he turned 65 because he was receiving the Guaranteed Income Supplement (GIS). However, as noted above, through some lack of communication or misunderstanding, the Appellant did not supply the Ministry with proof of his application for OAS, which would have indicated his eligibility for the GIS, although he believed that he had.

Once the Ministry received proof of the Appellant's eligibility for the GIS in March 2013, it re-opened his file as MSO-eligible. However, the Ministry indicated to the Appellant at that time that it was unable to reimburse the medical expenses incurred by the Appellant while his file was closed as the legislation does not allow for the reimbursement of expenses incurred before the month in which a person becomes eligible to receive them.

## PART F – Reasons for Panel Decision

The decision under appeal is the Ministry's reconsideration decision finding the Appellant ineligible to receive reimbursement for certain medical expenses incurred while his file was closed.

The relevant legislation is sections 23, 61.1, 62 and 63 the EAPWDR:

### Effective date of eligibility

**23 (1)** Subject to subsection (1.1), the family unit of an applicant for designation as a person with disabilities or for both that designation and disability assistance

- (a) is not eligible for disability assistance until the first day of the month after the month in which the minister designates the applicant as a person with disabilities, and
- (b) on that date, the family unit becomes eligible under section 4 and 5 of Schedule A for that portion of that month's shelter costs that remains unpaid on that date.

(1.1) The family unit of an applicant who applies for disability assistance while the applicant is 17 years of age and who the minister has determined will be designated as a person with disabilities on his or her 18th birthday

- (a) is eligible for disability assistance on that 18th birthday, and
- (b) on that date, is eligible under section 4 and 5 of Schedule A for that portion of the month's shelter costs that remains unpaid on that date.

(1.2) A family unit of an applicant for disability assistance who has been designated as a person with disabilities becomes eligible for

- (a) a support allowance under sections 2 and 3 of Schedule A on the date of the applicant's submission of the application for disability assistance (part 2) form,
- (b) for a shelter allowance under sections 4 and 5 of Schedule A on the first day of the calendar month that includes the date of the applicant's submission of the application for disability assistance (part 2) form, but only for that portion of that month's shelter costs that remains unpaid on the date of that submission, and
- (c) for disability assistance under sections 6 to 9 of Schedule A on the date of the applicant's application for disability assistance (part 2) form.

(2) A family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it.

(3) Repealed. [B.C. Reg. 340/2008, s. 2.]

(3.1) If the tribunal rescinds a decision of the minister refusing a supplement, the family unit is eligible for the supplement from the date of the minister's decision on the applicant's request under section 16 (1) of the Act [*reconsideration and appeal rights*] in relation to the supplement.

(3.2) If the tribunal rescinds a decision of the minister determining that a person does not qualify as a person with disabilities, the person's family unit is eligible to receive disability assistance at the rate specified under Schedule A for a family unit that matches that family unit on the first day of the month after the date of the minister's decision on the applicant's request under section 16 (1) of the Act [*reconsideration and appeal rights*] in relation to the designation.

(4) If a family unit that includes an applicant who has been designated as a person with disabilities does not receive disability assistance from the date the family unit became eligible for it, the minister may backdate payment but only to whichever of the following results in the shorter payment period:

- (a) the date the family unit became eligible for disability assistance;
- (b) 12 calendar months before the date of payment.

(5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

**Eligibility for medical services only**

**61.1** For the purposes of this Division, a person may be eligible for medical services only if

- (a) the person is a person with disabilities who is under age 65 and the person's family unit ceased to be eligible for disability assistance as a result of
  - (i) employment income earned by the person or the person's spouse,
  - (ii) money received by the person or another member of the person's family unit under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry, or
  - (iii) any person in the family unit receiving a pension or other payment under the Canada Pension Plan,
- (b) the person's family unit ceased to be eligible for disability assistance on the day the person became 65 years of age,
- (c) the person is a person with disabilities and the person's family unit ceased to be eligible for disability assistance because of
  - (i) financial assistance provided through an agreement under section 12.3 of the *Child, Family and Community Service Act*, or
  - (ii) an award of compensation under the *Criminal Injury Compensation Act* or an award of benefits under the *Crime Victim Assistance Act* made to the person or the person's spouse,
- (d) the person is a dependant of a person referred to in paragraph (a) or (c), or
- (e) the person is a dependant of a person referred to in paragraph (b), if the dependant was a dependant of the person referred to in paragraph (b) on the day that person became 65 years of age and remains a dependant of that person.

**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,
- (b) a person with disabilities who has not reached 65 years of age and who has ceased to be eligible for disability assistance because of
  - (i) employment income earned by the person or the person's spouse, if either the person or the person's spouse
    - (A) is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
    - (B) is aged 65 or more and a person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,
  - (ii) a pension or other payment under the *Canada Pension Plan (Canada)*, or
  - (iii) money received by the person or the person's spouse under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry,
- (c) a person who was a recipient of disability assistance on the day he or she became 65 years of age and a dependant of that person, if the dependant was a dependant of the person on that day and remains a dependant of that person,
- (d) a dependant of a person referred to in paragraph (a) or (b) (iii),
- (d.1) a dependant of a person referred to in paragraph (b) (i), if any person in the family unit
  - (i) is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
  - (ii) is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,

- (d.2) a dependant of a person referred to in paragraph (b) (ii),
  - (d.3) a dependant of a person referred to in paragraph (f), if any person in the family unit
    - (i) is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
    - (ii) is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,
  - (e) a dependent child of a recipient of hardship assistance,
  - (f) a person with disabilities who has ceased to be eligible for disability assistance because of an award of compensation under the *Criminal Injury Compensation Act* or an award of benefits under the *Crime Victim Assistance Act* made to the person or the person's spouse, if
    - (i) the person is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
    - (ii) the person is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, or
  - (g) a person whose family unit ceases to be eligible for disability assistance because of financial assistance provided through an agreement under section 12.3 of the *Child, Family and Community Service Act*, during the term of the agreement.
- (1.1) A person eligible to receive a health supplement under subsection (1) (b) (ii) or (d.2) may receive the supplement
- (a) while any person in the family unit is
    - (i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or
    - (ii) aged 65 or more and receiving the federal spouse's allowance or the federal guaranteed income supplement, and
  - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (1.2) A person eligible to receive a health supplement under subsection (1) (c) may receive the supplement
- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
  - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (1.3) A person who was eligible to receive a health supplement under subsection (1) (b) (i), (d.1), (d.3) or (f) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (2) A person referred to in subsection (1) (b) or (f) and his or her dependants and a person referred to in subsection (1) (c) cease to be eligible for any supplement under this Division if the person's family unit takes up residence outside British Columbia.

### Dental supplement

- 63 (1) Subject to subsections (2) and (3), the minister may provide any health supplement set out in section 4 [*dental supplements*] of Schedule C that is provided to or for a family unit if the health supplement is provided to or for a person in the family unit who is eligible for health supplements under
- (a) section 62 (1) (a), (b) (iii), (d) or (e) [*general health supplements*],
  - (b) section 62 (1) (b) (i), (d.1), (d.3) or (f), if
    - (i) the person is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
    - (ii) the person is aged 65 or more and any person in the family unit is receiving the

- federal spouse's allowance or the federal guaranteed income supplement,
- (c) section 62 (1) (b) (ii) or (d.2),
  - (c.1) section 62 (1) (c), or
  - (d) section 62 (1) (g).
- (2) A person eligible to receive a health supplement under section 62 (1) (b) (ii) or (d.2) may receive the supplement
- (a) while any person in the family unit is
    - (i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or
    - (ii) aged 65 or more and receiving the federal spouse's allowance or the federal guaranteed income supplement, and
  - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (3) A person eligible to receive a health supplement under section 62 (1) (c) may receive the supplement
- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
  - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (4) A person who was eligible to receive a health supplement under subsection (1) (b) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

In his written submissions the Appellant states that the Ministry did not ask him to provide proof of his application for OAS, and that, if they had he obviously would have done so. He also states that he had no proof of receipt of OAS/GIS until September or October 2012. At that point, he states, he was aware that he would no longer be receiving DA and so had no further contact with the Ministry. He did assume, however, that he was receiving MSO. The Appellant goes on to state that he only became aware that there was an issue with his MSO eligibility in March 2013 when he was notified that his medical expense claims had been denied.

There does appear to be some confusion on the Appellant's part when he discusses requests, notifications and his attendant replies regarding his OAS/GIS in that he may be of the opinion that those communications were with the Ministry, when in fact they were with the federal department responsible for the OAS/GIS. There is also some indication in the Appellant's submission that the Ministry should have been able to access his correspondence with the federal department, which, of course, it could not.

Finally, the Appellant argues that the Ministry should have informed him when it closed his file in October 2012. If the Ministry had done so, he states, he would have been made aware that the Ministry had not received the information it needed in order to qualify him for MSO.

The Ministry did not make a written submission so that the panel relied on its reconsideration decision. The Ministry maintains that it notified the Appellant on a number of occasions that he needed to provide it with proof of his application for OAS. As he did not submit proof of this until March 2013, he did not qualify for MSO until that month. The Ministry submitted a screenshot from the Appellant's history file dated July 27<sup>th</sup> 2012, regarding a phone call between a Ministry worker and the Appellant which reads: ". . .notified he has to provide verification from CCP that he has applied for OAS now that he is 65".

The Ministry also states that the legislation prohibits it from providing "assistance for a cost incurred before the calendar month in which the assistance is requested." The Ministry's characterization of the availability of retro-active payments quoted above is not quite correct, and it is important to the matter at hand to clearly understand what the legislation actually sets out in this regard. Section 23(2) of the EAPWDR states: "A family unit is not eligible for a supplement in respect of a period before the minister determines the family unit is eligible for it." In this case, the Minister determined that the Appellant was eligible for MSO in March 2013 because that is the month in which the Ministry received the information from the Appellant that allowed it to determine the Appellant's eligibility for those supplements.

The panel finds the following:

1. The Ministry did on at least one occasion (July 27<sup>th</sup>, 2012) inform the Appellant that it required proof of his application for OAS.
2. The Appellant was aware that he needed to submit this proof to the Ministry and assumed, based on correspondence with the federal department responsible for OAS, that he had done so.
3. There is no legislated requirement for the Ministry to notify a client that their file has been closed.
4. The Ministry cannot reimburse to the Appellant medical costs incurred before March 2013, the month in which the Appellant became eligible for MSO.

Accordingly, the Panel finds that the Ministry's decision is a reasonable application of the relevant legislation and that the appeal should be denied. The ministry's decision is confirmed.