

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (the ministry) dated 22 March 2013 that denied the appellant's request for a non-local medical travel supplement under section 2(f) of Schedule C of the Employment and Assistance Regulation. The request was to cover the costs of travel between her home in Town A and a health authority mental health and substance use clinic in City B for biweekly visits for methadone maintenance treatment. The ministry held that the request did not meet one of the following required criteria necessary for eligibility:

- No information had been provided to establish that the travel was required to attend the office of the nearest available medical or surgical specialist. The request was to obtain methadone, not to see a specialist, as required under section 2(f)(ii) of Schedule C of the Regulation, OR
- No information had been provided to establish that the travel was required to attend the nearest available hospital. The City B health authority mental health and substance use clinic is not a general hospital or rehabilitation hospital as defined in section 1.1 of the Hospital Insurance Act Regulations, as required under section 2(f)(iii) of Schedule C, OR a designated out patient diagnostic and treatment centre as defined in section 2(f)(iv) and in paragraph (e) of the definition of "hospital" in the Hospital insurance Act.

## PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), Schedule C, section 2(f)  
Hospital Insurance Act, section 1

## PART E – Summary of Facts

The appellant did not appear at the hearing. After confirming that the appellant was notified of the hearing, the hearing proceeded in accordance with section 86(b) of the Employment and Assistance Regulation.

The evidence before the ministry at reconsideration included the following:

- From the ministry's files: the appellant is a recipient of income assistance who qualifies as a person with persistent multiple barriers to employment.
- An undated note from a medical practitioner. The note has the health authority logo and the address for "Mental Health and Substance Abuse." The note reads: "[The appellant] is on methadone and will need an increase in financial support for travel to [City B] for appointments." And "Must go again March 7<sup>th</sup>/13"
- The appellant's Request for Non-local Medical Transportation Assistance, undated. The request is for assistance for an appointment 21 March 2013, and for subsequent biweekly appointments until 30 May 2013, at the City B Health Unit, giving the above noted medical practitioner as the referring practitioner. The travel distance is approximately 100 km. each way.
- The appellant's Request for Reconsideration, dated 04 March 2013. The appellant writes that City B is the only office that has space for her. She is on methadone for two reasons: 1) she was addicted to pain medications due all her injuries and 2) she is prescribed methadone for pain management. Her doctor has told her she will be on it for life. She has no money to get to and from her biweekly appointments and has been hitchhiking. She has got stuck in City B a few times with nowhere to sleep. Without the medication she is extremely ill and in pain. She feels that it is unfair to have the supplement denied as she is a client with chronic pain and has extreme difficulty hitchhiking to and from City B. She also feels as if she is being discriminated against due to the fact that she is on methadone.

In her Notice of Appeal dated 22 April 2013, the appellant writes that she is a woman of very limited means and she has very important needs to see her doctor every two weeks. She has been placed on methadone for life due to chronic pain.

At the hearing, the ministry stood by its position at reconsideration.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably denied the appellant's request for a medical travel supplement under section 2(f) of Schedule C of the EAR. The request was to cover the costs of travel between her home in Town A and a health authority mental health and substance use clinic in City B for biweekly visits for methadone maintenance treatment. In particular, the issue is whether the following ministry determinations are reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant:

- No information had been provided to establish that the travel was required to attend the office of the nearest available medical or surgical specialist. The request was to obtain methadone, not to see a specialist, as required under section 2(f)(ii) of Schedule C of the Regulation, OR
- No information had been provided to establish that the travel was required to attend the nearest available hospital. The City B health authority mental health and substance use clinic is not considered a general hospital or rehabilitation hospital as defined in section 1.1 of the Hospital Insurance Act Regulations, as required under section 2(f)(iii) of Schedule C, or a designated out patient diagnostic and treatment centre as defined in section 2(f)(iv) and in paragraph (e) of the definition of "hospital" in the Hospital insurance Act.

The applicable legislation is from Schedule C of the EAR:

### Definitions

1 In this Schedule:

**"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*.

### 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 67 [*general health supplements*] of this regulation:

- (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.

And the definitions from the Hospital Insurance Act:

**Definitions**

1 In this Act:

**"beneficiary"** means a beneficiary as defined in section 1 of the *Medicare Protection Act*,

**"benefits"** means the general hospital services authorized under this Act;

**"hospital"** means, except in sections 24 and 29 (2) (a),

(a) a hospital as defined by section 1 of the *Hospital Act* that has been designated under this Act by the Lieutenant Governor in Council as a hospital required to provide the general hospital services provided under this Act,

(b) a private hospital as defined by section 5 of the *Hospital Act* with which the government has entered into an agreement requiring the hospital to provide the general hospital services provided under this Act,

(c) a hospital owned and operated by Canada that has been designated under this Act a "federal hospital",

(d) an agency or establishment that

(i) provides a service to hospitals or a health service and

(ii) has been designated as a hospital facility by the Lieutenant Governor in Council, or

(e) an establishment in which out patient services are available that has been designated a diagnostic and treatment centre by the Lieutenant Governor in Council for providing out patient benefits to beneficiaries in accordance with this Act and the regulations;

Since the requested supplement was for non-local travel, the ministry considered the appellant's request as to whether it met one of the criteria set out in subparagraphs (ii), (iii) or (iv) of section 2(1)(f) of Schedule C of the EAR. The position of the ministry was that the information provided did not establish that the supplement was required for any one of the purposes/destinations set out in the above subparagraphs.

The position of the appellant is that she requires the requested non-local travel supplement to continue her methadone maintenance treatment to address her addiction to prescription pain medication and for pain management purposes. She is taking this treatment under the supervision of a medical practitioner. The City B clinic is the only office that has space for her. She feels that the denial of her medical travel supplement request is a result of being discriminated against due to the fact that she is on methadone.

The panel will consider the reasonableness of the ministry's decision under the provisions of the legislation:

- *Whether the treating medical practitioner is a "specialist"?*: The appellant has not provided any information that the medical practitioner at the clinic in City B is a specialist registered with the College of Physicians and Surgeons of BC, as required in subparagraph (ii).

- *Whether the City B clinic is a "hospital"?:* In the reconsideration decision, the ministry states that the City B Mental Health and Substance Use clinic is not considered a hospital for the purposes of the legislation. As the appellant has not provided any evidence or argument to the contrary, and as the panel is limited to considering only oral or written testimony presented in the appeal record or at the hearing and therefore has no mandate to conduct its own research, the panel accepts the ministry's evidence and finds that the clinic is not a one of the types of hospital referred to in section 2(f) of Schedule C. The panel notes that the categorization and designation of hospitals under the Health Insurance Act is not readily transparent to the general public, including ministry clients; the panel therefore suggests that a reference to the source of the information used by the ministry to come to this conclusion would have been helpful.
- *Nearest available specialist/suitable hospital:* Even if the treating medical practitioner were a specialist or the City B clinic a hospital, the legislation requires that the travel be to the "nearest available" or "nearest suitable" destination. The panel notes that City B is 100 km away from the appellant's home in Town A, with other larger towns relatively close by and another medium-sized city midway between her home and City B. Given the travel distance involved, it would be reasonable for the ministry to expect that the appellant fully substantiate why the clinic or the medical practitioner in City B is the nearest suitable or available. The appellant has stated that City B is the only office that has space for her. However, she has not provided any information as to how she reached this conclusion, and whether she had any professional help in canvassing clinics and physician offices where her treatment might be offered. In particular, the appellant has not provided any information as to whether she canvassed medical practitioners in her local area that might be licensed to prescribe methadone and thus be an alternative resource for her treatment.

Based on the foregoing, the panel finds that the ministry's decision to deny the appellant the requested medical travel supplement was reasonably supported by the evidence. The panel therefore confirms the ministry's decision.