

## PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (the ministry) dated 22 April 2013 that denied the appellant's request for a medical transportation supplement under section 2(1)(f) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation. The request was to cover the costs of travel between the appellant's home in Town A and a dental clinic in Town B for dental treatment for her dependent son. The ministry held that the request did not meet the criteria set out in the above legislation. Specifically, the ministry held that the travel was not to the office of a specialist as defined in the legislation, nor was it confirmed that the treatment is a benefit under the Medical Services Plan (MSP) or a general hospital service under the Hospital Insurance Act.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule C, sections 1 and 2(1)(f)  
Medical and Health Care Services Regulation (MHCSR), section 19.

## 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:

1. From the ministry's files: the appellant is in receipt of disability assistance for herself, spouse and 2 dependent children.
2. A "To whom it may concern" letter from the appellant's physician dated 11 April 2013. The physician writes that the appellant's son has an appointment for urgently required specialist dental treatment for an epulis. The physician states that he understands from the son's dental surgeon that this treatment cannot be provided closer to home. The son requires support for attending his appointment to address this serious condition.
3. A "To whom it may concern" letter from the appellant's dentist (Dentist A) dated 11 April 2013. The dentist writes that the reason the appellant's son has an appointment on 18 April 2013 with [Dentist B] is because the son had a root canal treatment on this tooth in the past and [Dentist B] has to re-treat it.
4. The appellant's Request for Reconsideration dated 13 April 2013. Under Reasons, the appellant writes that her son has an abscess on a tooth previously treated by Dentist B at the [Town B] Dental Clinic. She requested travel funds to get her son to an appointment and was denied, apparently because said dentist is not a registered specialist. She states that they have taken her son back to the referring dentist (Dentist A), who says he doesn't have the equipment to do the work on her son and who says that the son has to go back to the dentist who previously dealt with the tooth. She also has a note from her physician stating that this has to be done soon.

In her Notice of Appeal dated 07 May 2013, the appellant writes that her son has been to see Dentist B 13 times now. This is over a root canal that went bad. Dentist B is doing this work for free. There is poison in her son's gums which can cause him to go blind or do brain damage. The dentist is cutting her son's gums open again. She would like the money as she is on disability assistance.

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

## PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that denied the appellant's request for a medical transportation supplement under section 2(1)(f) of Schedule C of the EAPWDR, to cover the costs of travel between her home in Town A and a dental clinic in Town B for dental treatment for her dependent son, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. The ministry held that the travel was not to the office of a specialist as defined in the legislation, nor was it confirmed that the treatment is a benefit under the Medical Services Plan (MSP) or a general hospital service under the Hospital Insurance Act.

The relevant legislation is from the EAPWDR, Schedule C:

### 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 62 [*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 from the Medical and Health Care Services Regulation (under the Medicare Protection Act):

### Dental and orthodontic services

19 (1) Subject to section 27, a dental or orthodontic service is a benefit if the service is

- (a) related to the remedying of a disorder of the oral cavity or a functional component of mastication,
- (b) listed in a payment schedule for dentists and described in subsection (2),
- (c) rendered by an enrolled dentist, and
- (d) described in an adequate clinical record.

(2) The following are services for the purpose of subsection (1) (a) or (b):

- (a) an oral surgical procedure rendered to a beneficiary who
  - (i) has been properly admitted to a hospital, or
  - (ii) is a patient under the Day Care Services Program

and for whom hospitalization is medically required for the safe and proper performance of the surgery;

(b) a medically required service rendered in association with, and followed by, an oral surgical procedure meeting the requirements of paragraph (a);

(c) a medically required service rendered by a specialist in oral medicine to a beneficiary with a severe systemic disease;

The position of the ministry was that the appellant's request did not meet the legislated criteria. Specifically the ministry holds that Dentist B is not a specialist in a field of medicine or surgery in accordance with the bylaws of the College of Physicians and Surgeons of BC (CPSBC). Further, there was no confirmation provided that the treatment of the tooth is a benefit under MSP or a general hospital service under the Hospital Insurance Act.

Although the appellant was not at the hearing, the panel understands that her position, as set out in the Request for Reconsideration and the Notice of Appeal, is that her son needs treatment for the abscess: the infection poses a risk to his health and as such is medically necessary. It should not matter whether the treating professional is a dentist or a medical specialist, and her physician has referred her son for treatment to the dentist who worked on him before and is willing to solve the problem. She would argue that on these grounds her request for a transportation supplement is reasonable and justified.

The panel notes that none of the criteria for this supplement relate to the degree of medical necessity; rather, the criteria at issue are the type of destination facility – whether to the office of a “specialist” or to a hospital – and whether the purpose of the travel is covered by MSP or the Hospital insurance Act. With respect to the appellant's request, the destination is the office of Dentist B. There is no indication that Dentist B, while no doubt registered with the College of Dental Surgeons of BC, is additionally a medical practitioner/“specialist” registered with the CPSBC. Alternatively, there is no information that Dentist B would perform the son's treatment in a hospital setting or under one of the oral surgical procedure scenarios described in section 19(2) of the MHCSR set out above, the only dental treatment covered by MSP.

Accordingly, the panel finds that the ministry's decision to deny the appellant's requested medical transportation supplement is reasonably supported by the evidence. The panel therefore confirms the ministry's decision.