

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated March 26, 2013 that held that the appellant was not eligible for a medical transportation supplement to attend his oral surgery appointment at a private clinic because the appellant's appointment was not at a general hospital and the service provided was not under the Hospital Insurance Act or the Medicare Protection Act pursuant to Schedule C, Section 2(1)(f) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

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 and Schedule C, Section 2.

PART E – Summary of Facts

The ministry did not attend the hearing. After confirming that the Ministry was notified, the hearing proceeded under section 86(b) of the EAR.

The evidence before the ministry at the time of reconsideration included: (a) a request for Non-Local Medical Transportation Assistance dated February 14, 2013; (b) a Service Request letter dated February 28, 2013; and (c) a Request For Reconsideration dated March 6, 2013.

A request for Non-Local Medical Transportation Assistance indicated that the appellant had an appointment on March 6 at 11:30 am with a dentist and needed transportation to travel there and return home on the same day. The request noted that the appellant was not able to contribute to the cost of this medical transportation and that he had considered options of family/friends and voluntary agencies to assist with the cost.

The Service Request letter written by the office assistant for the dentist reported that the appellant has significant medical and psychological health problems as well as his dental problems and that he has been denied treatment under general anesthetic due to his health history. It is further stated that the appellant is to be treated using light sedation to remove his remaining teeth and that remodeling and recontouring of oral tissue will be performed as deemed necessary.

The Request For Reconsideration was completed by the dentist for the appellant. It is reported that the appellant has a complicated medical history and is very obese. It further states that the appellant was assessed at the local hospital but the anesthesiologist refused his case due to his airway risk. Thus, there is no option but to have his teeth removed in the private clinic which is not publically funded.

On appeal, the appellant submitted the following documents:

1. A letter dated April 4, 2013 from the appellant's local dentist advising that his office could not provide the extraction services for the appellant and mailed out a dental referral to the non-local dental surgery office on December 13, 2011.
2. A letter dated April 4, 2013 from the appellant indicating that he lives in a small rural community with limited access to medical services. He writes that as there was no option for treatment in his area, he was referred to another general hospital and denied access to public health service. The appellant indicates that he required light sedation and the publically funded anesthesiologist would not treat him due to risk of complications. The appellant states that he required immediate care in order to prevent serious infection and that the public health system restrictions led him to use the private clinic. It was not his choice.

On appeal, the appellant writes that there was no provision to have his teeth extracted locally and he had to have it done immediately to prevent serious infection. He states that it was life or death for him and he is on total disability and has no funds.

At the hearing, the appellant submitted:

1. His Anesthesia Record from the local hospital dated January 31, 2013 which reported under Procedure: removal all native teeth and under Problems: ASA III, very high anesthesia risk, morbid obesity, HTN [Hypertension], COPD/RAD [Chronic Obstructive Pulmonary Disease/Reactive Airway Disease], GERD [Gastro-esophageal Reflux Disease], recurrent DVT [Deep Vein- Thrombosis] and chronic pain. It is further noted to cancel his OR on Feb14, 2013.
2. His mother's account statement from an Oral Surgery Association dated March 6, 2013 which indicated that her son's surgical expenses had a remaining balance of \$1860.00 after a payment of \$2,500.00 was made.

At the hearing, the appellant testified that he has been in a wheelchair for 7 years, can't stand or walk and suffers from debilitating arthritis. He indicated that it is difficult for him to speak as he has no teeth and that his mother would help him with the testimony. The appellant stated that the arrangements for his surgery were made by the hospital, after the local anesthesiologist refused his case and his surgery was cancelled. The appellant stated that he didn't know that it was a private clinic when the arrangements were being made for him. As he was at risk of a serious infection, he had to have his teeth removed immediately. The appellant also stated that it took him a long time to get an appointment for surgery. In response to a question by the panel, the appellant testified that his brother took a day off work to drive him to the private clinic for his surgery on March 6, 2013 and they used his mother's van. The appellant indicated that it was about 130 miles from his home. The appellant's mother stated that she paid about \$100 for gas.

The panel admitted the appellant's Anesthesia Record from the local hospital dated January 31, 2013 along with the appellant's oral testimony as evidence under section 22(4) of the Employment and Assistance Act as they were found to be directly in support of the information and records before the ministry at reconsideration. The panel did not admit the appellant's mother's account statement from an Oral Surgery Association dated March 6, 2013 as it was not found to be relevant to the request for non-local medical transportation assistance.

Findings of Fact

The appellant is a single recipient with Persons with Disabilities designation.

The appellant's oral surgery to have his remaining native teeth removed which had been scheduled for February 14, 2013 was cancelled after the anesthesiologist refused his case.

The appellant was rescheduled for oral surgery at a private clinic on March 6, 2013.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision to deny the appellant a medical transportation supplement to attend his oral surgery appointment at a private clinic because the appellant's treatment was not at a general hospital and the service provided was not under the Hospital Insurance Act or a service covered by the Medicare Protection Act.

Relevant Legislation

EAPWDA

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

EAPWDR

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,

Schedule C

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.

Based on the appeal record, the ministry maintains that in order to meet the criteria of the legislation, the appellant's appointment would have to be at a general hospital and the service provided under the Hospital Insurance Act or a service covered by the Medicare Protection Act. The ministry argues that it has been confirmed by the dentist that the surgery would be performed at a private clinic and the treatment is not covered by the medical services plan.

The appellant's position is that he had no choice as it was a matter of life or death as he risked serious infection; he is fully disabled and does not have the resources to cover the cost of the transportation to and from his dental surgery. The appellant argues that the public health system restrictions led him to use the private clinic which he was not aware of when the arrangements were made for him by the hospital.

In determining the reasonableness of the ministry's decision, the panel has reviewed and considered the local dentist's referral, the appellant's testimony and all medical information confirming the necessity of the appellant's treatment. Neither 2(1)(f)(i) or (ii) apply to the appellant's circumstances. To be eligible under 2(1)(f)(iii) or (iv) and (v), the panel finds that the legislation clearly sets out that the service provided would have to be at a general hospital and covered under the Hospital Insurance Act or by the Medicare Protection Act. As the

surgery would be performed in a private clinic, the panel finds that the ministry has no authority to cover the transportation costs and therefore, the panel also finds that the ministry reasonably determined that the appellant was not eligible for a transportation supplement pursuant to Schedule C, section 2 of the EAPWDR.

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