

APPEAL #

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration decision dated March 1, 2013 wherein the Ministry denied the appellant's request for a medical transportation supplement pursuant to section 62 and Schedule C, section 2(f) of the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation as the appellant's request for medical transportation to visit a foot care specialist does not meet the ministry's definition of a specialist. Additionally, the ministry found that the appellant's request did not fit any of the remainder of eligible categories for medical transportation.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation Section 62
Employment and Assistance for Persons with Disabilities Regulation Schedule C, Sections 1 and 2(f)

PART E – Summary of Facts

The appellant has been denied a medical transportation supplement to visit her podiatrist.

On February 8, 2013 the appellant was advised that she was not eligible for non-local medical transportation. On February 21, 2013 the appellant applied for reconsideration. The Ministry reconsidered the matter on March 1, 2013 and again denied the request. It is the reconsideration decision that is now under appeal.

The appellant requested a medical transportation supplement to attend appointments with a foot care specialist as referred by her physician. The appointments are regularly scheduled and for the purpose of treating the appellant's severe callous. Podiatrist services are covered by MSP. However, there are no podiatrists available in the appellant's hometown and she therefore has to travel out of town to seek foot treatment.

The ministry denied the request as a podiatrist does not meet the legislated definition of "specialist" for the purpose of transportation supplements. Additionally, the ministry found that the appellant's request did not fit any of the remainder of eligible categories for medical transportation.

The evidence before the ministry included a letter dated January 28, 2013 from the appellant's physician which confirms the appellant's need to attend a foot care specialist on a regular basis for medical reasons due to severe callous and monthly pedicure/foot care. The evidence also included a receipt dated January 30, 2013 which shows the cost of a medical pedicure to be \$50.00. The medical pedicures are provided by a certified foot care nurse.

In her notice of appeal, the appellant says she disagrees with the ministry's decision because she still needs the services of a foot care specialist as she cannot do her own foot care. She says that she would need to travel out of town to visit a podiatrist as there is no podiatrist in her town of residence. Furthermore, the appellant says her needs can be taken care of by a "foot care specialist" in her home. In the record, the appellant provides a copy of a receipt for \$50.00 from a licensed practical nurse who can provide the treatment that the appellant requires in her home. Therefore, the appellant says she is not applying for money for transportation but rather for coverage for the foot care treatment.

In her written submissions, the appellant adds that she does not require a doctor to perform the basic needs of cutting her toe nails and trimming her callous. She says that, due to her mental health, the severe callous, as well as her osteoarthritis in her hands and body, she is unable to perform this task on her own. She states that she has no family members who can or will help her to cover the costs of the monthly foot care specialist treatment, and therefore requests the ministry to allow her to get these services.

The panel has considered the new evidence submitted by the appellant and finds that it is admissible under section 22(4) of the Employment and Assistance Act as it is evidence in support of the information and records that were before the Ministry when the reconsideration decision was made.

PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry reasonably concluded that the appellant is ineligible for a medical transportation supplement.

The following legislation applies to this decision:

Employment and Assistance for Persons with Disabilities Regulation:

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 - General health supplements

1: "**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*.

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.

In her notice of appeal the appellant is asking to have the foot care services provided in place of a transportation supplement as the services she requires can be taken care of in her home. It is not open to this panel to grant that relief. Rather, the panel is limited to determining whether the ministry's reconsideration decision is reasonably supported by the evidence or whether it is a reasonable application of the Act and regulations pursuant to section 24(1) of the Employment and Assistance Act.

Applying the role of the panel to the facts of this appeal, the panel finds that the legislated definition of "specialist" as defined in Section 1 of Schedule C does not appear to cover podiatrists because they cannot be registered with the College of Physicians and Surgeons of BC as required by the definition. As such, the appellant's application for a medical transportation supplement for the purpose of attending a podiatrist cannot succeed.

The ministry did consider whether the appellant may be eligible for a transportation supplement under any of the remainder eligible categories for medical transportation but the appellant's request fails to meet the criteria of the other sections. In this regard, the panel finds that the ministry reasonably determined that the appellant's request is not to or from an office of a medical practitioner or nurse practitioner in the local area (Section 2(f)(i)), the request is not for the purpose of attending a specialist in a field of medicine or surgery (section 2(f)(ii)), and it is not for the purpose of attending the nearest suitable hospital (sections 2(f)(iii) and (iv)).

Therefore, in considering all of the evidence, and after applying the legislation to the facts of this case, the panel finds that the Ministry reasonably concluded that the appellant is not eligible for a medical transportation supplement. The panel further finds that the Ministry's decision was a reasonable application of the legislation and confirms the decision pursuant to section 24(1)(a) and (b) and 24(2)(a) of the Employment and Assistance Act.