

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) September 25, 2013 reconsideration decision denying the appellant's request for additional chiropractic therapy sessions; the ministry determined that the appellant's request does not meet all the requirements set out in section 2 of Schedule C of the Employment and Assistance for Persons With Disabilities Act (EAPWDA) as his medical practitioner does not provide evidence to confirm that the appellant has an acute rather than chronic need for chiropractic treatments, and because the medical practitioner has not indicated how many chiropractic sessions the appellant requires.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) section 62 and Schedule C section 2.

PART E – Summary of Facts

The evidence before the ministry at reconsideration included the following information:

From the ministry's files: the appellant is a recipient of disability assistance.

A statement by the appellant's chiropractic centre reporting

- 8 visits between January 2 and January 31, 2013, all covered by ICBC.

A report by the appellant's chiropractor documenting the following 31 visits between February 4 and September 4, 2013:

- 8 visits under ICBC : February 4 and March 4, 2013;
- 10 visits under MSP when he paid \$22 and MSP paid \$23 per visit: March 20 to May 8, 2013 with a comment from the office that "assisted MSP paid for 10 visits only";
- 13 visits when the appellant paid \$45 per visit: May 16 to September 4, 2013;

A doctor's note dated September 23, 2013 stating that: "[The appellant's] chronic cervical condition and DDD was aggravated by an acute injury on December 6, 2012 (an MVA)."

At his reconsideration request dated September 10, 2013 the appellant states that

- he is in need of additional chiropractor visits;
- his back was injured in a car accident December 6, 2012 and he requires help to manage recovery;
- he has exceeded his 12 visits allowed per year;
- his physician has confirmed this is an acute need.

In his Notice of Appeal dated September 30, 2013 the appellant states that

- his physician has confirmed that he has "an acute injury as a result of an acute injury from a car accident".

At the hearing the appellant provided additional detail about the car accident in question: a truck had hit the driver's door and smashed his neck and hip. After his accident he had x-rays taken that showed that the spine was straight. He got far worse after the accident.

The appellant adds that he had many accidents in his life. Once he got hit by a ski while water-skiing. Over 30 years ago he suffered a whip lash. His spine alignment specialist is helping him with pain and to stop degeneration of the disc. Every time he goes to therapy they adjust 1 disc - it is too difficult to operate. The chiropractor cannot estimate how long it will take to heal, he has to go as often as possible. His C2 disk is out of place within 2 days. It can only heal when it's aligned. It's starting to heal now.

The appellant says that before the accident he went to the chiropractor once every 3 weeks, how often he goes now depends on affordability. He would prefer to go twice a week. After each appointment a new one is scheduled. He has been with his current chiropractor for 6 years. He lost weight from the inflammation.

The appellant affirms that his family doctor is not conversant with dealing with spinal issues. He gave him the wrong medicine and only prescribes medication that has nothing to do with the accident.

The ministry relied on its reconsideration decision.

APPEAL #

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in his Notice of Appeal and at the hearing as being in support of the information that was before the ministry at reconsideration; these statements provide additional information about the appellant's accident and circumstances related to his need for chiropractic treatments.

PART F – Reasons for Panel Decision

The issue under appeal is whether it was reasonable of the ministry to deny the appellant additional chiropractic therapy sessions; specifically, whether the ministry reasonably determined that the requirements of section 2 Schedule C (EAPWD) were not met;

- the medical practitioner has not confirm that the appellant has an acute rather than chronic need for chiropractic treatments pursuant to section 2(1)(c)(i), and
- the medical practitioner has not indicated how many chiropractic session the appellant requires.

The following sections of the EAPWDR apply to this appeal:

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

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: ...

(c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,

(i) for which a medical practitioner or nurse practitioner has confirmed an acute need,

(ii) if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and

(iii) for which there are no resources available to the family unit to cover the cost: ...

Item	Service	Provided by	Registered with
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i>

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- (2) No more than 12 visits per calendar year are payable by the minister under this section for any combination of physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services.
 - (2.1) If eligible under subsection (1) (c) and subject to subsection (2), the amount of a general health supplement under section 62 of this regulation for physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services is \$23 for each visit.

Acute need

The appellant argues that because his back was injured in a car accident on December 6 he needs additional chiropractor treatments to manage his recovery, and that his physician has confirmed his acute need. The appellant has had spinal problems for 30 years and argues that the only treatments that provide relief are spinal alignments; medications prescribed by his family physician have not helped at all.

The ministry's position is that the appellant's condition is chronic rather than acute because the appellant's back injury dates back at least to December 6, 2012, and because the appellant's physician has not indicated that the appellant has had an exacerbation of his chronic condition or had any additional back injuries or any other information that would provide evidence of an acute condition.

The panel notes that the legislation provides that a medical practitioner or nurse practitioner must confirm an acute need for the requested chiropractic treatments as set out in section 2(1)(c)(i) of Schedule C EAPWDR. While the appellant argues that at this stage in his recovery from the MVA a spinal alignment treatment provides significant pain relief, the pain becomes severe again after a few days, and he is in acute need of another treatment. The panel finds that even though the appellant's physician reports an acute injury from a car accident that aggravated the appellant's chronic condition, the acute need as described by the appellant is not confirmed by the physician: The physician's note does not mention chiropractic treatments or how such treatments would address an acute need. The panel therefore finds that the ministry reasonably determined that this criterion had not been met.

Number of sessions

The appellant argues that he has exceeded his yearly MSP limit of visits to the chiropractor and is in need of more sessions.

The ministry argues that the appellant's physician should have indicated how many additional chiropractic sessions the appellant required because they have to be pre-approved by the ministry and there is a maximum of 12 extended therapy sessions available.

The panel notes that there is no legislative requirement that a medical practitioner has to identify the

number of requested sessions, even though section 2(2) of Schedule C EAPWDR may limit the amount to 12 visits per calendar year. The panel finds that the ministry's position on this point is not supported by the cited legislation.

Conclusion

Having reviewed and considered all of the evidence and the relevant legislation the panel finds that the ministry's decision that the appellant was not eligible for the requested additional chiropractic treatments was reasonably supported by the evidence and therefore confirms the ministry's decision.