

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) August 13, 2013 reconsideration decision denying the appellant's request for an ongoing medical transportation supplement because the minister is not satisfied that there are no resources available to cover transportation costs pursuant to section 2(1)(f)(vi) of Schedule C of the Employment and Assistance For Persons With Disabilities Regulation (EAPWDR) . Specifically, it is the ministry's opinion that

- the appellant has resources available from ongoing assistance to purchase the annual subsidized bus pass for \$ 45 which allows unlimited use of public transport, and medical verification has not confirmed that the appellant is medically unable to take public transport;
- even if the appellant were unable to use a bus pass for some trips the ministry cannot conclude that the appellant would have extraordinary costs for medical transportation as the urologist did not provide the expected number of appointments per month that the appellant would be required to attend his office.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 67(1)(a).
Employment and Assistance for Persons With Disabilities Regulation (EAPWDR)
Schedule C section 2(1)(f).

PART E – Summary of Facts

The evidence before the ministry at reconsideration included:

A letter by a urologist dated July 11, 2013 stating that

- the appellant has been assessed on the previous day in his clinic.
- it appears that she is having a recurrence of her tumor and will need to have on-going follow-up with his office.
- her biopsy is set for September, they do not have a date yet as they are awaiting to hear about operating room closures due to a possible anesthesia shortage.
- her treatment is dependent on her biopsy.
- he will keep her informed when he knows more about her condition.

An operative report by the urologist printed July 12, 2013, stating the following:

- Date of Operation: July 9, 2013.
- The appellant is well known to his practice with a history of bladder cancer.
- She recently has been struggling with a swollen left leg and knee.
- She had an ultrasound which was negative, but it did reveal a lymph node in her left groin.
- She declined her most recent maintenance series of BCG.
- On July 12 on examination her abdomen was soft and non-tender.
- The specialist could not palpate any lymphadenopathy in her groin that was obvious.
- Her knee appeared slightly swollen, but with a non-specific appearance.
- On July 12 on examination with a cystoscope her bladder appeared completely normal with multiple previous resection sites.
- The area of concern at the left ureteric orifice did appear to have some papillary change. It appeared very superficial and small.
- The specialist suspects this area needs to be re-biopsied with a possible left ureteric stent placement afterward due to the proximity to the distal ureter.

As mentioned by the appellant in her Notice of Appeal, page 2 of this report was originally missing. It was included on September 24 completing the last sentence of the report which reads "She is aware of this issue and I am going to make arrangements for this to take place sometime in the fall." The words "place sometime in the fall" are on page 2.

In her self-report dated July 2013, 2013 the appellant states that

- she is a Person with Persistent Multiple Barriers for medical reasons;
- that she had requested transportation for July 9, 2013 which had been approved – due to not being able to get around as good as usual, due to foot and leg swelling, possibly caused by a chemo treatment for bladder cancer;
- that upcoming surgery is required as the letter states from the doctor, but no date has been set as explained by the doctor;
- that this is a request for medical assistance for ongoing transport.

The ministry states in its reconsideration decision dated August 13, 2013

- that the appellant is an income assistance recipient approved for assistance as a Person with Persistent Multiple Barriers.

Additional information provided on appeal:

In her Notice of Appeal dated August 21, 2013 the appellant states that

- they've made a decision on transportation already [and it was] provided for the attached appointment;
- all documentation is not complete as page 2 of the doctor's letter is missing which she can provide;
- appointments have already been attended and more are coming up – she will need transportation for 2 pending surgeries.

A letter by a surgeon dated September 6, 2013, stating that

- the appellant has papillary carcinoma of the bladder and is treated by the medical specialist with intrabladder medications.
- she is noted to have a left groin node 4 cm in diameter. This has been identified on ultrasound.
- she is planned for a bladder biopsy in sometime in September.
- the node itself is noted to be slightly larger at the present day compared to the past.
- she has had no lymphadenopathy.
- she has had left leg problems, she says, for at least a year or two.
- there is no history of deep venous thrombosis or phlebitis.
- she has no night sweats, fever or significant weight loss.
- he does not feel the node being as large as reported on ultrasound, however, this is subjective.
- he has given her the option of having this surgically biopsied or considering an ultrasound fine needle aspiration biopsy. She felt a fine needle aspiration biopsy would be more easily tolerated and she would rather have this as a first step.

Patient instructions dated September 11, 2013 stating that

- the appointment date is October 18, 2013 and
- the exam ordered is US Fine Needle Guided Biopsy.

A undated letter by the urologist noting

- the appellant's cystoscopy and bladder biopsy to be at the hospital on November 21;
- the appellant is expected to stay at the hospital for 4-5 hours;
- she is requested to arrange for a ride home and for someone to check on her that day;
- the follow-up appointment at his office on December 4.

A doctor's note dated September 22, 2013 stating:

"bladder tumors = frequent visits with specialists, osteoarthritis Needs bus pass"

In her written submission dated September 23, 2013, the appellant states that

- she has cancer of the bladder for 4 years;
- when she requested a medical ongoing transportation supplement it was because her physician stated that he would keep her informed, which is basically her informing the ministry this way;
- [she needs medical transportation until] she has these procedures done - the doctors have to wait till bookings for operating rooms are available; she already had appointments for scans and tests etc. since July 8, 2013.
- she is on a waiting list since 6 years with BC housing;

- most of her check goes directly towards rent each month which leaves her with 0 for the cost of a bus pass;
- she is not well;
- with the cost of rent increasing each year she finds it harder to seek help from relatives who are financially strapped with their own families;
- community help has been available;
- help for transportation for getting around would be helpful and less strenuous on her health as a biopsy is done on October 18;
- it will let her and the doctors know if it is cancer and requires surgery;
- [she will need transportation] from both surgeries after October 18 and November 21, 2013 dependent on the type of treatment and recuperation;
- she is able to function well on some days and others are not good due to her leg and arthritis.

The ministry relied on its reconsideration decision.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in her Notice of Appeal and her additional submission as well as the additional medical information as being in support of the information that was before the ministry at reconsideration; the new information provides additional detail about the appellant's medical circumstances and availability of resources.

PART F – Reasons for Panel Decision

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) August 13, 2013 reconsideration decision denying the appellant's request for an ongoing medical transportation supplement because the minister is not satisfied that there are no resources available to cover transportation costs pursuant to section 2(1)(f)(vi) of Schedule C of the Employment and Assistance For Persons With Disabilities Regulation (EAPWDR) . Specifically, the ministry finds that

- the appellant has resources available from ongoing assistance to purchase the annual subsidized bus pass for \$ 45 which allows unlimited use of public transport, and medical verification has not confirmed that the appellant is medically unable to take public transport;
- even if the appellant were unable to use a bus pass for some trips the ministry cannot conclude that the appellant would have extraordinary costs for medical transportation as the urologist did not provide the expected number of appointments per month that the appellant would be required to attend his office.

The following section of the EAPWD applies to this appeal:

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:

(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.

The appellant argues that because the ministry has granted a supplement for her July 9 medical transportation due to foot and leg swelling she is now entitled to a supplement for ongoing transportation for her medical appointments following her July 9 biopsy.

The ministry argues that in this specific case the appellant has requested ongoing medical transportation, and it is this specific request the ministry is considering.

The panel notes that its legal obligation is to decide on the reconsideration decision and its reasonableness of the reconsideration decision at hand is about the appellant's request for an ongoing medical transportation. It further notes that legislation does not deal with "ongoing" medical transportation supplement and "extraordinary costs" but is concerned with the least expensive appropriate mode of transportation to or from a local doctor's office, the office of the nearest available specialist or the nearest suitable hospital.

The appellant argues that she needs a supplement for ongoing medical transportation because she had several doctor's appointments during the last months and still has several medical appointments to attend. Her doctor predicts "frequent visits with specialists". According to medical evidence 2 appointments took place prior to the appellant's Notice of Appeal and 3 afterwards (October 18, November 21 and December 4). She says she will require a ride home for her biopsy.

The appellant argues further that she has leg problems and is not able to get around as usual. Her doctors report that she says she had left leg problems for at least 1 year and that her knee appeared slightly swollen but with non-specific appearance; "arthritis" is noted.

The ministry argues that medical verification has not been provided to confirm that the appellant is medically unable to take public transport.

The panel finds that despite leg problems mentioned by the appellant and by her doctors there is not enough evidence that the appellant cannot use public transport as the least expensive appropriate mode of transportation for the majority of her medical appointments pursuant to section 2(1)(f) of Schedule C of the EAPWDR - one of the appellant's doctors explicitly states that she needs a bus pass. The only exception is her November 21 appointment: the panel finds that for this specific appointment she will need a ride home and someone to check on her after her procedure and public transport is not an appropriate mode of transportation under these circumstances.

The appellant argues that she has no money available to buy a bus pass as most of her assistance check goes towards rent. Community help has been available to her but she finds it difficult to seek help from relatives since they themselves are low of funds.

The ministry argues that the appellant has resources available from her ongoing assistance to buy an annual subsidized bus pass for \$45 which provides unlimited use of public transport.

The panel finds that the appellant has provided no evidence that community help is no longer

available to her, and even though the appellant affirms her lack of funds and her difficulty seeking help from relatives there is not enough evidence that the appellant has no resources available to purchase a bus pass as set out in section 2(1)(f)(vi).

Based on the information on appeal the panel finds that the ministry was reasonable in denying the appellant's request for a medical transportation supplement for all her appointments except the one on November 21. Because medical evidence confirms that the appellant will need a ride home and some care after her November 21 procedure, the ministry is unreasonable in denying her request for a medical transportation supplement for that specific appointment. For these reasons the panel rescinds the decision respecting the November 21 medical appointment and refers it back to the Minister for a decision as to amount.