



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry)'s reconsideration decision dated January 9, 2014, finding the Appellant is not eligible to receive a medical transportation supplement as the request does not meet the criteria set out in section 2(1)(f)(iii) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) that the supplement cover the costs associated with travel to and from the nearest available specialist.

PART D – Relevant Legislation

The relevant legislation is section 2(1) of Schedule C of the EAPWDR.

PART E – Summary of Facts

The Appellant is in receipt of disability assistance as a couple. He has a number of serious vision-related health issues which require relatively frequent attention and consultation with an ophthalmologist. The appellant provided a list of seven appointments scheduled with his ophthalmologist to occur between November 26, 2013 and June 11, 2014. The appellant has been a patient of the same ophthalmologist for approximately 20 years. On November 28, 2013 the ministry denied the appellant's request for a medical transportation supplement in order to see his ophthalmologist on December 2. The distance between the appellant's residence and the ophthalmologist's office was approximately 300 km each way and the appellant had a friend drive him to his December 2 appointment and reported that he had to borrow the money to pay for gas. The appellant requested reconsideration of the ministry's decision not to provide the medical transportation supplement on December 23, 2013.

The appellant submitted in support of his appeal a letter from his ophthalmologist dated January 15, 2014. In this letter the appellant's ophthalmologist briefly discusses the appellant's ocular conditions and states that "The complexity of his ocular disease status means that important interventions may need to be done on a relatively urgent basis and on a relatively regular basis." He then goes on to say,

"My working relationship with [the appellant] has been forged over these past 20 years and the trust built between us is important for the timely management of his difficult ocular conditions. The importance of the doctor-patient relationship is paramount for someone like [the appellant]."

Finally, the ophthalmologist declines the ministry's invitation to comment on whether another ophthalmologist working closer to the appellant's residence could or could not provide adequate support for the appellant's conditions.

The panel considered the admissibility of this new evidence and found that it did not introduce any new facts and arguments but rather is in support of the appellant's position at the time of the reconsideration decision and so admitted the latter in accordance with section 22(4)(b).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's reconsideration decision dated January 9, 2014, finding the Appellant is not eligible to receive a medical transportation supplement as the request does not meet the criteria set out in section 2(1)(f) of the EAPWDR that the supplement cover the costs associated with travel to and from the nearest available specialist.

The relevant legislation is section 2(1) of Schedule C of the EAPWDR:

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 Ministry found the appellant did not qualify for a medical transportation supplement because, in accordance with subclause 2(1)(f)(ii), the request was not for "the nearest available specialist". In support of this position the ministry identified a number of ophthalmologists, with the expertise appropriate to manage the the appellant's ocular condtion, with offices much closer to the appellant's residence.

The appellant's position in his written appeals documents, supported by a letter from his ophthalmologist, is that his 20 year relationship with his ophthalmologist has established a good doctor patient relationship such that, "The best care I can receive is from him."

The panel considers that the wording of section 2(1)(f)(ii) clearly limits the ministry's ability to provide a medical transportation supplement to the "nearest available specialist". It is clear from the facts, that the appellant's ophthalmologist is not the nearest available specialist in the field of ophthalmology. Therefore, the ministry cannot provide the appellant with a medical transportation supplement to travel to and from this ophthalmologist.

Accordingly, the panel finds that the Ministry's decision to find the Appellant ineligible to receive a medical transportation supplement to travel to and from his ophthalmologist was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.