

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 25 June 2014 determined that the appellant was not eligible for assistance with the medical transportation health supplement because the medical practitioner she was referred to was not in her local area and because he was not a specialist under s. 2 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62.
EAPWDR Schedule C, section 2(1)(f).

PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- The appellant is designated as a Person with Disabilities (PWD) and provided assistance as a sole recipient.
- On 22 August 2013, she was diagnosed with cancer and subsequently had surgery.
- A series of 8 “Request for non-local medical transportation assistance” forms in March, April, May and June 2014 for weekly travel to a neighbouring community for appointments with a pain specialist, by car, taxi and/or bus transportation.
- A series of 8 appointment cards showing the appellant’s appointments in April, May and June 2014 at the medical clinic in the neighbouring community to either receive her prolotherapy treatment and/or for appointments with a family doctor.
- A Referral Letter dated 18 November 2013 by the physician that is administering the appellant’s treatment stating that she had an injection of her hip and spine and was advised to rest following this procedure.
- Another Referral Letter by the same physician dated 25 February 2014 stating he would resume treatments in early April 2014.
- A letter to the ministry dated 4 April 2014 by a physician who treated the appellant for cancer advising them that the appellant had to travel out of her local area to a neighbouring town for scheduled appointment with a doctor on 8 April 2014 and that she might be required to travel with an attendant. It stated in capital letters that this was the closest location available for such treatment.
- A letter dated 13 June 2014 by a local physician stating that the appellant needed to see a doctor in a neighbouring community and needed help/support with transportation. It stated that “she is seen by a pain specialist there and this service is not available in [her local area]. It will be on an ongoing basis for 6-12 months.”
- A 2-page undated document titled “What is Prolotherapy?” explained the treatment administered by the appellant’s doctor.
- A 1-page letter by the appellant, undated but written shortly after 9 June 2014 and faxed to the ministry on the 12th, stated that her family doctor moved out of her community and that after her surgery for cancer she had problems and the doctor who treated her for prolotherapy referred her to a family doctor in the same town as him. She stated that she needed a doctor but that there were none available in her community and consequently she requested transportation assistance to that neighbouring community. She stated that it was the closest place where she could find a doctor and that both doctors were specialists.
- In her request for reconsideration dated 19 June 2014, the appellant stated that the doctor treating her with prolotherapy was a specialist and was the closest to where she lives. She was getting better, could walk without a cane but she still needed treatment because she still had pain as a result of her cancer. She had already paid for transportation for 7 appointments but owed that money and still had more appointments in the future.
- A printout dated 25 June 2014 from the internet, College of Physicians and Surgeons of British Columbia website, titled “Find a Physician” indicates that the doctor providing the prolotherapy treatment to the appellant has a class of registration as “FULL General/Family Practice” and CCFP – Family Medicine.

In her Notice of Appeal dated 2 July 2014, the appellant indicated that the doctor treating her with

prolotherapy is a specialist and that this treatment is working as she no longer uses a cane and hopes to be able to eventually work, even part time. This doctor is the only one in this area that specializes in this treatment.

With her written submission for this appeal, the appellant provided the following additional documents:

- A 1-page document by a physician that treated the appellant for cancer explaining her condition as of 3 June 2013.
- A letter by the appellant stating that she had been to at least 10 doctors in her local area and that none of them can deliver the prolotherapy treatment. She does not own a computer and phoning a doctor at a provincial number is not an option since she already knows what is wrong with her health and they would not be able to treat her over the phone, as this is a hands-on treatment. The prolotherapy doctor is not a general practitioner but specializes in that treatment and is doing other tests that are required.
- A doctor's note dated 22 June 2014 on a prescription form signed by physician A confirms that the appellant needs "prolotherapy" for her back and that it is not available in her local area, only in the neighbouring town.
- A doctor's note dated 11 July 2014 on a prescription form signed by physician B confirms that the appellant requires prolotherapy treatment in the neighbouring community, which is not available in her local area and that she will be treated "2 weekly for the next year".

The panel determined the additional documentary evidence was admissible under s. 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration, particularly that it confirms what the appellant had been stating to the ministry and provides some corroboration of her statements.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant was not eligible for assistance with the medical transportation health supplement because the medical practitioner she was referred to was not in her local area and because he was not a specialist under s. 2 of Schedule C of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation can be found at Schedule C of the EAPWDR that first define who qualifies as a specialist:

1 In this Schedule:...

"**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*.

And section 2 (*General Health Supplements*) indicates at paragraph 1 (f) who is eligible for medical transportation assistance:

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 argued that the appellant was not eligible for medical transportation supplement because:

- Transportation was not required to attend a general practitioner in her local area as she lives in a locality that is close, 10 km, to a small town that is considered as her local area while she is over 100 km from the neighbouring town where the doctors are.
- While the doctor she has been referred to is a specialist in pain management according to a local practitioner, he is not registered as a specialist in a field of medicine or surgery by the College of Physicians and Surgeons but is registered as a general practitioner (GP).
- The other doctor that she has been referred to and that is in the same building as the doctor who administers the prolotherapy is also a GP and not a specialist and is not in her local area. The ministry argues that while the appellant stated there was no available GP in her local area, the appellant can have access to doctors online, by phone and at her local hospital.
- Travel was not required to attend an appointment at the nearest suitable hospital or rehab

hospital.

- The ministry is satisfied the appellant may not have the resources to pay for travel to the neighbouring community twice a month for 6-12 months.

The appellant argued that she has been referred to a specialist closest to her community in a neighbouring town because no one is available in her own local area to perform prolotherapy and that this treatment has been really helpful for her. She has seen many doctors in her area that have all told her they could not provide this treatment. She argued that this was causing her lots of stress and she was only trying to keep her health up so that she will not end up in hospital. She was just starting to feel a little better with this treatment and still needed more tests to be done and she would like to be able to go to her appointments with as little stress as possible. She argued that online medicine does not work for her as she has no computer and contacting a doctor by phone would not work either since she knows what she has and the treatment cannot be provided over the phone. She reiterated that the doctor who provides the prolotherapy treatment is not her GP but a specialist in pain management.

The panel considered first whether the location where the treatment is administered to the appellant is outside of her "local area" and as the ministry stated in its arguments, the evidence shows that the town in question is over 100 km from the appellant's community and that another town is about 10 km and thus, the panel finds the ministry reasonably determined the town where the doctor administering the prolotherapy treatment is not part of the appellant's local area.

Hence, the question as to whether the doctor administering the treatment is a specialist is important as if he were, the ministry would be able to provide medical transportation supplement under s. 2(1)(f)(ii) of Schedule C of the EAPWDR. The evidence shows that many other doctors in the appellant's community consider that doctor as being a pain management specialist and have referred the appellant to him. However, s. 1, Schedule C of the EAPWDR defines specialist as a medical practitioner "recognized as a specialist... in accordance with the bylaws made by the board of the College of Physicians and Surgeons" of BC and the ministry provided evidence to the effect that the College confirmed that this doctor was not registered with them as a specialist in the field of medicine or surgery. Not only is there evidence that he was not "registered" but there is no evidence he is recognized by the College bylaws as a specialist and therefore the panel finds the ministry reasonably determined he was not a specialist as defined by the legislation.

The panel notes however that the ministry made the unfortunate statement that the appellant could rely on an online doctor or by telephone or her local hospital while she has a known medical condition that needs follow up; the panel finds this comment referred specifically to the loss of her GP in her community and not to the prolotherapy treatment and sadly reflects the shortage of family doctors in some parts of the province. There is no issue as to whether the other doctor that the appellant is seeing is not a specialist but a GP and the appellant did not provide any evidence to the contrary.

The panel notes there is no evidence that the conditions set in s. 2(1)(f)(iii) and (iv) existed and thus finds the ministry reasonably concluded the appellant was not eligible for medical transportation supplement under those dispositions.

In conclusion, the panel finds the ministry reasonably determined the doctor delivering the

prolotherapy treatment as well as the other family doctor were not specialists according to the legislation but GPs, and as such, reasonably determined their offices were not in the appellant's local area. Consequently, the ministry reasonably determined the appellant did not meet the conditions set at s. 2(1)(f) of Schedule C of the EAPWDR for a medical transportation supplement.

Therefore, the panel finds the ministry's decision was reasonably supported by the evidence and confirms the decision.