

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated August 13, 2014, which held that the appellant is not eligible for a health supplement for reimbursement for transportation costs incurred to attend medical appointments from May 2013 to May 2014 because he failed to meet the following legislative criteria:

- The cost were incurred prior to the calendar month in which the assistance was requested [Employment and Assistance Regulation (EAR) section 26(5)];
- The appellant was an employable recipient from May 2013 to May 2014 and did not become eligible for Persons with Persistent Multiple Barriers (PPMB) until June 1, 2014 [EAR section 67 (1) (a)(i)];
- The appellant did not provide evidence that demonstrated that attending his medical appointments met a direct and imminent life threatening need [EAR section 76 (a)]; and
- The appellant did not provide evidence that demonstrated that there were no other resources available to him to cover the costs associated with attending the medical appointments [EAR section 76 (a) and Schedule C 2(1)(f)(vi)].

PART D – Relevant Legislation

Employment and Assistance Regulation [EAR] – sections 26(5), 67 (1)(a)(i), 76(a) and Schedule C 2(1)(f)(i).

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration consists of:

1. Request for Reconsideration signed and dated July 15, 2014, with a 6-page statement prepared by an advocate, and signed and dated July 22, 2014 by the appellant which states in part that:
 - The appellant has been in receipt of income assistance since 2010, gained PPBM status on June 1, 2014 and has applied for Persons with Disability (PWD) status;
 - He used the least expensive mode of transportation;
 - He went to the closest specialist for his health conditions;
 - He requested Non-Local Medical transportation assistance on May 27, 2014;
 - He was just made aware in May 2014 that was able to request assistance for the costs associated with attending his medical appointments;
 - He had no resources to pay for the costs associated with attending his medical appointments;
 - He owes his friend \$500-\$600 for money he needed to attend his appointments and should not have to go into personal debt because the ministry found that he got to his appointments and there is no need to repay these funds;
 - He attended 25 specialist appointments in 2014 which is an extraordinary cost for anyone let alone someone on a fixed income;
 - Supplementary assistance is only considered when essential treatment is not available in the local community and the recipient has a referral for the required medical treatment;
 - Medical practitioners outside of the local area must be considered specialist in accordance with the College of Physicians and Surgeons; and
 - Ongoing medical transportation for extraordinary and predictable appointments that have been confirmed by a medical practitioner may be authorized to a maximum of 12 months.
2. Request for Non-Local Medical Transportation Assistance form signed and dated May 2, 2014;
3. A letter from the appellant's doctor that is signed and states the appellant attended an appointment on January 22, 2014. At the bottom of this letter, written by hand, it indicates 3 additional appointments were attended: 1) March 28 at a non-local hospital for an Eco-cardiogram for one hour, 2) April 14 at a non-local hospital for a MRI for 3 hours, and 3) May 7 at a non-local hospital for a consultation for 2 hours;
4. A 2-page summary of the appellant's medical appointments dated November 6, 2013, September 30, 2013 and May 29, 2013 at a non-local hospital;
5. 5 parking receipts from a non-local hospital from January 22, 2014 for \$4.50, March 24, 2014 for \$2.50, March 28, 2014 for \$13.50, April 17, 2014 for \$12.00 and May 7, 2014 for \$9.00;
6. An undated note showing dates the appellant attended a non-local hospital May 25, 2011 and November 13 both in 2011, March 7, March 19, May 7, June 11, September 23, October 31, and December 27 in 2013 and March 24, 2014;
7. A letter dated January 23, 2014 from a non-local hospital confirming the appellant's April 17, 2014 appointment for an MRI;
8. A 3-page patient data summary for the appellant which shows various appointments the appellant attended from 1998 to 2014;
9. A 1page patient visits summary for a non-local doctor which shows the following dates: March 7, May 28 and July 8 of 2013 and April 6, 2014;
10. A letter signed and dated March 5, 2014 which states that the appellant an appointment at a non-local hospital with a surgeon and he requires surgery;

A Notice of Appeal signed and dated August 25, 2014 that states that the appellant makes \$610.00 per month, of which, \$400.00 goes towards rent, and he had to borrow funds to attend his medical appointments as parking was expensive.

At the hearing the appellant submitted 3 letters:

1. A signed and dated (September 5, 2014) letter from a medical practitioner which confirmed that the appellant attended 18 medical appointments outside of his local area between May 2013 and June 1, 2014 for medical conditions that directly threatened his life;
2. A hand-written note dated May 2013 which states that a friend of the appellant agrees to loan him \$1000 to pay for transportation for medical appointments. The note also states that the appellant will pay back \$50 per month until paid in full. The note is signed by the appellant and his friend;
3. A letter from the ministry dated September 12, 2014 which states that the appellant is eligible for PWD designation.

Admissibility of New Information

The ministry objected to the admission of the new information and stated that it was new information that was not before the ministry at the time of reconsideration.

The panel found that the preceding new information presented by the appellant was in support of the information before the ministry at the time of reconsideration. The letter dated September 5, 2014 confirms that the appellant attended multiple medical appointments from May 2013 to June 1, 2014. Though the information before the ministry stated May 2013 to May 2014, the panel finds that the difference of one day is immaterial. The hand-written note dated May 2013 confirms the appellant's claim that he has taken on personal debt by borrowing money from a friend to attend his medical appointments. The September 12, 2014 letter confirms that the appellant has medical conditions. Accordingly, the panel did admit this new information as being in support of information and records that were before the ministry at the time of the reconsideration, in accordance with s. 22(4) of the *Employment and Assistance Act*.

At the hearing, the appellant stated the following:

- He had 18 different visits to the hospital for his heart and leg;
- His friend lent him money for his transportation costs and even drove him to the appointments sometimes;
- His girlfriend lent him her car so he could drive himself to the appointments;
- When he applied for PPMB he was accepted right away which proves that he has medical needs;
- He has done everything to make his life better which includes being sober from drugs for 6 years, from alcohol for 2 years and from smoking for 1 year;
- He cannot even work for 2 hours, he cannot climb ladders or lift heavy objects as he gets tired easily
- His heart is functioning at 38% and the doctors cannot do anymore to help him other than manage his condition with medication;
- He has worked since he was 15 years old and it's hard for him to not be able to provide for himself.
- He stated that he has been attending medical appointments for 4 years but is only requesting

assistance for the past year. He was not aware he could request funding until a friend told him could;

- In response to a question, the appellant stated that he had a verbal agreement with his friend to borrow \$1000 and that the note dated May 2013 was penned for the hearing;
- In response to a question regarding the July 22, 2014 6-page submission prepared by the advocate which states that he owes a friend \$500-\$600, the appellant stated he was not sure exactly how much he paid in transportation costs; it could have been more than \$1000 but he borrowed and must pay back \$1000;

At the hearing the ministry relied on its reconsideration decision and added that:

- It is bound by the legislation;
- Regardless of his health issues he was not eligible for PPMB until June 1, 2014 and therefore not eligible for re-imburement for his medical transportation costs because during the period from May 2013 to May 2014 the appellant was an expected to work client; and
- The ministry cannot reimburse funds for expenses unless they were incurred in the current calendar month.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision to deny the appellant a health supplement for transportation to attend medical appointments from May 2013 to May 2014 was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant failed to meet the criteria listed in section 26(5), 67(1)(a)(i), 76(a) and Schedule C 2(1)(f)(vi) of the EAR?

The relevant legislation is as follows:

Effective date of eligibility

26 (5) A family unit is not eligible for any assistance in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested.

General health supplements

67 (1) Subject to subsection (1.1), 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

(a) is a recipient of income assistance under section 2 [*monthly support allowance*], 4 [*monthly shelter allowance*], 6 [*people receiving room and board*] or 9 [*people in emergency shelters and transition houses*] of Schedule A if

(i) any person in the family unit is a person who has persistent multiple barriers to employment,

Health supplement for persons facing direct and imminent life threatening health need

76 The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [*general health supplements*] and 3 [*medical equipment and devices*] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that

(a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,

(b) the health supplement is necessary to meet that need

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 67 [*general health supplements*] of this regulation:

- (f) the least expensive appropriate mode of transportation to or from
- (vi) there are no resources available to the person's family unit to cover the cost.

The Appellant's Position

The appellant's position is that he was not aware he could request funding from the ministry for non-local medical transportation costs until recently and his appointments that have been confirmed by a medical practitioner should be authorized to a maximum of 12 months. He had to attend his medical appointments as his condition was life threatening which has been confirmed by his doctor in the September 5, 2014 letter. Finally he has had to go into personal debt to cover the costs associated with attending his medical appointments as he borrowed \$1000 and must pay his friend back.

The Ministry's Position

The ministry's position is that the appellant is not legislatively eligible for reimbursement of his non-local medical transportation because the costs were not incurred in the month that the appellant requested the re-imbusement, he did not have PPMB qualification at the time the costs were incurred, he has not established that attending the medical appointments met a life-threatening need and the appellant has not established that he did not have other resources available to him to cover the costs.

The Panel's Decision

The appellant argued that the costs for non-local medical costs should be reimbursed for up to 12 months because the medical appointments were extraordinary, predictable and confirmed by a medical practitioner. The ministry argues that the expenses must be claimed in the calendar month in which they were incurred. The panel notes that the legislation, [EAR section 26(5)], clearly states that a recipient is not eligible for assistance for costs incurred before the calendar month in which the assistance is requested. As a result, the panel finds that the ministry reasonably determined that the appellant does not qualify for a health supplement for non-local medical transportation costs under section 26(5) of the EAR.

The appellant argued that he was accepted for PPMB immediately which demonstrates that he was ill at the time the costs were incurred. The ministry argues that at the time the costs were incurred the appellant was an expected to work client and did not have PPMB qualification. The panel notes that the appellant does not disagree that his qualification at the time the costs were incurred was that of an expected to work client and that he only became eligible for PPMB after the costs were incurred. The panel also notes that the legislation [EAR section 67 (1) (a)(i)] states that the ministry may provide a health supplement to a recipient if he or she has persistent multiple barriers to employment. As a result, the panel finds that the ministry reasonably determined that the appellant does not qualify for a health supplement for non-local medical transportation costs under section 67 (1)(a)(i) of the

EAR.

The appellant argues that he had to attend his medical appointments because it was a life threatening need and this is confirmed by his doctor in her September 5, 2014 letter. The ministry argues that at the time of reconsideration, the appellant did not demonstrate that the medical appointments were necessary to meet a life threatening need. The panel notes that the appellant's doctor does provide information that the appellant faced a life threatening condition and attended 18 appointments for an approximate 1 year period. The panel notes that the legislation [EAR section 76 (a)] states that a health supplement may be provided if the recipient faces a direct and imminent life threatening need. The panel notes that the doctor does not provide any additional information about the appellant's medical condition and only states that his condition was life threatening. Also, the doctor states that appellant attended 18 appointments which speaks to a chronic condition rather than an imminent threat. The panel finds that the information provided by the appellant's doctor in the September 5, 2014 letter was insufficient to establish that the appellant faced a direct and imminent life threatening need. As a result, the panel finds, that the ministry reasonably determined that the appellant does not qualify for a health supplement for non-local medical transportation costs under section 76 (a) of the EAR.

The appellant argues that he did not have the resources to cover the costs for transportation and therefore had to borrow \$1000 from his friend, which he must pay back, and provided a note signed by his friend as evidence. The ministry argues that the appellant did have resources available to him as he has already paid for the costs he incurred from May 2013 to May 2014 for non-local medical transportation. From the appellant's own admission, he is not sure how much his non-local transportation costs were but that he borrowed \$1000 in May 2013 from his friend. The panel notes that the appellant did borrow \$1000 from his friend as is evident from the May 2013 signed note. However the condition of the loan clearly states that the appellant will pay back \$50 per month until paid in full. The panel notes that as of September 2014, 16 months later, that balance owing on the loan should be \$200 and that the appellant has had the resources to cover the cost of the loan to this point. The panel also notes that section 76 (a) of the EAR states that two conditions must be met in order to be eligible for assistance if otherwise not eligible, and those are a direct and imminent life threatening need and that no other recourse are available. The panel finds that the ministry reasonably determined that neither of these conditions was met by the appellant. Finally, the panel notes that Schedule C (1) (f)(vi) states that a health supplement may be provided if no other resources are available. As a result, the panel finds, that the ministry reasonably determined that the appellant does not qualify for a health supplement for non-local medical transportation costs under section 76 (a) and Schedule C (1)(f)(vi) of the EAR.

Conclusion

The panel finds that the ministry reasonably concluded the evidence establishes that all of the required criteria set out in sections 26(5), 67(1)(a)(i), 76(a) and Schedule C (1)(f)(vi) have not been met. The panel therefore finds that the ministry's decision to deny the appellant's request for a health supplement for non-local medical transportation was a reasonable application of the legislation and was supported by the evidence. Thus, the panel confirms the ministry's reconsideration decision.