

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (The Ministry)'s Reconsideration Decision, dated September 11, 2014 in which the Ministry denied the appellant a medical transportation supplement to pay for trips to attend appointments with a general practitioner in another community because the request does not meet the legislative criteria set out in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, Section 2 (1)(f), specifically because the appellant is not attending an appointment to the office of the nearest specialist in the field of medicine or surgery or to the nearest hospital to receive a benefit under the *Medicare Protection Act* or a service under the *Hospital Insurance Act*.

## PART D – Relevant Legislation

**Employment and Assistance for Persons with Disabilities Act (EAPWDA) section 5**  
**Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 62,**  
**Schedule C sections 1 and 2(1)(f)(ii) and (vi)**

## PART E – Summary of Facts

The appellant has been designated as a Persons with Disabilities and is a sole recipient of assistance. The appellant requested a health transportation supplement on July 28, 2014 in order to travel from his residence in Community A to an appointment on August 21, 2014 with a physician in Community B, and an additional subsidy to attend this physician's office on a regular basis. On July 29, 2014 the ministry denied the appellant's request and on August 29, 2014 he requested reconsideration of that decision.

The information before the ministry at the time of reconsideration included the following:

- 1) A letter dated July 22, 2014, to "whom it may concern", from physician A in Community B, confirming the appellant's appointment on August 21, 2014 in order to receive care for his opiate addiction. The physician notes that although the appellant is treated with methadone maintenance for addiction purposes, his chronic pain is inadvertently treated by the long acting drug. The letter states that the clinic does not treat people for pain, but rather for addiction issues, although occasionally some patients may experience benefits such as pain relief. The letter concludes with a request for the appellant to receive a subsidy to travel to the clinic in Community B regularly.
- 2) A copy of the notice of decision to the appellant, dated July 29, 2014, providing reasons for the ministry's denial of the appellant's request for medical transportation assistance. As Reasons for Ministry Decision, it states: You requested medical transportation to [Community B] clinic, confirmed this with a written letter from the Dr. A, however, the Dr. writes, "We do not treat people here at the clinic for pain relief, but rather addiction issues. However occasionally patients will experience other benefits, including pain relief. Therefore, you are not eligible for medical transportation to attend the [Community B] clinic. To this decision is a check-list of Applicable Legislation, however, no boxes to indicate the applicable legislation have been checked on either page.
- 3) Copies of the appellant's Patient Drug Summary Report, dated July 15, 2014 from a local pharmacy in Community A. The report lists the appellant's prescription medicines, including methadone, which were filled for two time periods, between July 3, 2011 and September 7, 2011, and September 3, 2013 and January 28, 2014.

For the period of September 3, 2013 to January 28, 2014, the statement indicates that the appellant has received 39 prescriptions for methadone for pain management, 27 prescribed by Dr. A, between October 5, 2013 and January 28, 2014 and 12 prescribed by Dr. B between September 3, 2013 and October 4, 2013.

For the period of July 3, 2011 to September 7, 2011 the appellant was prescribed 240 methadone Hydrochloride 25mg tablets on two occasions, by Dr. C, a general practitioner in Community B.

- 4) In Section 3 of the Request for Reconsideration, dated September 24, 2014, the appellant wrote that he is on disability because of severe chronic pain and he has been prescribed many different pain medications over the years and methadone is the one he is currently taking and has been taking for a long time. He states that he has to receive the medication from an addiction clinic in Community B, because the last physician (B), in Community B, that prescribed it for him, no longer has room for the appellant in his new practice, in Community C. He states that physician B asked physician A to accept him as a patient so that he could continue taking methadone for pain. In an attached handwritten letter, dated September 8, 2014, the appellant explains that he asked physician B's office to correctly rewrite a letter, indicating that he is receiving methadone for pain, not opiate addiction, however he has not yet received this letter. He states that the secretary at physician A's clinic told him that their office is only mandated to prescribe methadone for addiction. He concludes that there are only two physicians that can prescribe methadone in this area which makes his options very limited and because his previous physician no longer practices in Community B and has no room available in his new office in Community C, the appellant therefore has to attend the Community B addictions clinics to receive methadone for pain.

As set out in the reconsideration decision, the ministry states that although the appellant has been referred to the physician in Community B, this physician is not registered with the College of Physicians and Surgeons as a "specialist" as defined in the Medicare Protection Act, but as a "general practitioner", therefore he does not meet the criteria for non-local transportation under section 1 of Schedule C of the EAPWDR. The ministry further states that it does not matter if the appellant is being treated for addiction or pain, he does not meet the legislated criteria because he is not attending the office of the nearest specialist.

In his signed Notice of Appeal the appellant states that he is receiving methadone for pain. He states, "The prescribing of methadone for pain was referred by a specialist to a general physician." He adds that no general physicians in his town have the special license to prescribe methadone, so he has to commute to receive the prescription.

The appellant's evidence at the hearing included the following information:

- The appellant stated that he suffers chronic back pain and stenosis, has been taking different pain medications for 20 years and has found that methadone is the only treatment that has given him any relief.
- The appellant explained that physicians require a special license in order to prescribe methadone and there are only two in his area qualified to do so, physician A in Community B, and physician B, the specialist that used to practice in Community B and treat the appellant, but has since moved to a full time practice in Community C and does not have room for the appellant in his practice.
- The appellant states that prior to seeing physician B, he had been treated by a general

practitioner, physician C in Community B in 2011, received methadone prescriptions and travel to these appointments were covered by ministry supplements.

- The appellant states that since being denied his travel subsidy, he has still been making the monthly 90km trip because he has to, but covering the costs himself is putting him in financial hardship.
- The appellant states that the secretary for physician A asked him to sign a form so that their office could receive a \$500 supplement provided by the ministry. Once he had done so, he realized that his travel costs were no longer being covered, so he requested the physician's office send back the supplement they received, particularly because he learned it was to be used to cover the costs of the addiction counsellor at the clinic, which he did not use because he was only being treated for pain.
- The appellant stated that he had requested a copy of the referral letter that physician B wrote to physician A so that he could show the ministry that he had been referred by a specialist to receive methadone treatment for pain by physician A. He was informed by physician B's office that if the ministry required that information, they would have to request it. When the appellant contacted the ministry office to ask if they would request the letter, he was told that the ministry won't gather information on his behalf and it was his responsibility.
- The appellant concluded that he is receiving methadone treatment for pain, not addiction and has done so for several years. He only changed from seeing physician B, the specialist, to physician A because he had been referred to do so and there are no other options in his area. He added that traveling to a different specialist would likely be many hours away over mountain passes, which would lead to much larger travel expenses and be extremely difficult and dangerous in the winter months.

The ministry relied on the information within the reconsideration decision and otherwise submitted no new information. The ministry confirmed that in order to receive a supplement for transportation for medical treatment outside the appellant's local community, the treatment must be provided by a specialist as defined by the Medicare Protection Act and physician A is a general practitioner and therefore does not meet the legislated criteria. The ministry also stated that there may be some discretion for general practitioners who have received specialized training in pain management, however physician A has only provided a letter stating that he is treating the appellant for an addiction with methadone that inadvertently treats his pain.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the Ministry's decision of September 11, 2014, to deny the appellant a medical transportation supplement to pay for trips to attend appointments with a general practitioner in another community was reasonable, on the basis that his request did not meet the legislative criteria set out in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, Section 2 (1)(f), because the appellant is not attending an appointment to the office of the nearest specialist in the field of medicine or surgery or to the nearest hospital to receive a benefit under the *Medicare Protection Act* of a service under the *Hospital Insurance Act*.

The relevant section of the EAPWDA is as follows:

### **Disability assistance and supplements**

**Section 5** Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

The relevant sections of the EAPWDR are as follows:

### **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.

**Schedule C Health Supplements**

Definitions:

S. 1 "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.

The appellant argues that he was referred to physician A for methadone treatment by his previous specialist, physician B who left Community B to practice in a different community and no longer had space for him in his practice. He also states that the ministry covered his travel costs to attend a general practitioner (physician C) in the same office in 2011 for the same treatment, so this circumstance should not be handled any differently. He argues that physician A inaccurately stated that he was being treated for addiction because their office is not permitted to prescribe methadone for non-addiction purposes, even though he only receives methadone to manage his chronic pain.

The ministry's position is that the appellant is attending appointments with physician A, a general practitioner, who despite being licensed to prescribe methadone, is not a specialist as defined by the Medicare Protection Act. Physician A is located 90km away and as stated in EAPWDR Schedule C, section 2 (1), transportation to an office of a medical practitioner or nurse practitioner may be paid only for an office in the local area.

The panel finds that although the appellant has explained that he is attending physician A because he was referred there by his previous specialist and it is the only office in any of the neighbouring communities that can prescribe methadone and has the space to accept him as a patient, it remains that physician A is a general practitioner and not a specialist as defined by the Medicare Protection Act. Therefore, the panel finds that the ministry reasonably determined that the appellant is not eligible to receive a supplement for transportation to the appointments with physician A because the appellant's request did not meet the criteria of EAPWDR Schedule C section 2.

### Conclusion

In conclusion, the panel finds that the ministry's decision to deny the appellant a travel supplement to travel to medical appointments because the physician did not meet the criteria under Schedule C section 2 of the EAPWDR was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel thus confirms the ministry's decision.