

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated June 4, 2015 which held that the appellant was not eligible for additional reimbursement of food and drink costs while traveling and receiving out of province medical treatment the week of March 29, 2015 because she has already received the maximum allowable meal allowance as set out in the Health Supplements and Programs Rate Table for 8 days and because, contrary to Schedule C, Section 2(f)(vi) of the Employment and Assistance for Persons with Disabilities Regulation, the family unit has other resources available, specifically federal benefits.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Section 62
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, Section 2(1)(f)
Health Supplements and Programs Rate Table (policy)

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the Employment and Assistance Act.

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

- The appellant currently receives Medical Services Only (MSO) as a two person family unit.
- The appellant completed and submitted an application for a special transportation subsidy, dated May 31, 2015. The appellant wrote that she has severe and rare eczema on her hands and feet and the only available location for allergy testing was an out of province hospital. She requested transportation and accommodation reimbursement from March 29, 2015 through April 5, 2015. This included West Jet return airfare, baggage claim expenses, shuttle bus return, accommodation, taxis, food and drink.
- 20 pages of documentation supporting the following expenses: return airfare – 399.91, baggage costs – 50.00, shuttle bus – 30.00, outpatient accommodations – 175.00, food and water for 8 days – 232.26, totaling \$887.27.
- The ministry found that the appellant was eligible for reimbursement of her medical transportation costs for the flight, booking fees and shuttle totaling \$529.91, accommodations costs of \$176.00, and \$96.00 for meals (\$4.00 per meal x 3 per day x 8 days).
- The shortfall between claimed expenses and reimbursed expenses was \$136.36, and this difference was between the allowed food per diem provided and the food and drink receipts substantiating actual expenses for the period March 29, 2015 and April 5, 2015.

Documents received after the reconsideration decision:

- June 10, 2015 Notice of Appeal
- June 25, 2015 submission by the appellant consisting of 48 pages including:
 - Family unit monthly income of \$2,484.08
 - Statistics Canada printouts of Market Basket Measure (MBM) intended to establish living costs specific to regions
 - Rent receipt for \$736.00 for April 2015
 - Furniture payment receipt for \$172.88 for May 30, 2015
 - Shaw invoice due June 2015 for \$319.90.
- July 14, 2015 email from the Ministry confirming no submissions would be provided.

The panel finds that the information provided by the appellant in the documents received after the reconsideration decision is in support of the evidence that was before the ministry at the time of reconsideration, and accordingly admissible pursuant to Section 22(4) of the Employment Assistance Act.

PART F – Reasons for Panel Decision

The decision under appeal is whether the Ministry's reconsideration decision which held that the appellant was not eligible for additional reimbursement of food and drink costs while traveling and receiving out of province medical treatment the week of March 29, 2015 because she has already received the maximum allowable meal allowance as set out in the Health Supplements and Programs Rate Table for 8 days and because, contrary to Schedule C, Section 2(f)(vi) the family unit has other resources available, specifically federal benefits, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The applicable legislation is summarized below:

General health supplements

62 (1) Subject to subsections (1.1) and (1.2), 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 is

(a) a recipient of disability assistance,

(b) a person with disabilities who has not reached 65 years of age and who has ceased to be eligible for disability assistance because of

(i) employment income earned by the person or the person's spouse, if either the person or the person's spouse

(A) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or

(B) is aged 65 or more and a person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,

(ii) a pension or other payment under the *Canada Pension Plan* (Canada),

(iii) money received by the person or the person's spouse under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry, or

(iv) money or value received by the person or the person's spouse that is maintenance under a maintenance order, maintenance agreement or other agreement, if either the person or the person's spouse

(A) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or

(B) is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,

(c) a person who was a recipient of disability assistance on the day he or she became 65 years of age and a dependant of that person, if the dependant was a dependant of the person on that day and remains a dependant of that person,

(d) a dependant of a person referred to in paragraph (a) or (b) (iii),

(d.1) a dependant of a person referred to in paragraph (b) (i) or (iv), if any person in the family unit

(i) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or

(ii) is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,

(d.2) a dependant of a person referred to in paragraph (b) (ii),

(d.3) a dependant of a person referred to in paragraph (f), if any person in the family unit

(i) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or

- (ii) is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,
 - (e) a dependent child of a recipient of hardship assistance,
 - (f) a person with disabilities who has ceased to be eligible for disability assistance because of an award of compensation under the [Criminal Injury Compensation Act](#) or an award of benefits under the [Crime Victim Assistance Act](#) made to the person or the person's spouse, if
 - (i) the person is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or
 - (ii) the person is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, or
 - (g) a person whose family unit ceases to be eligible for disability assistance because of financial assistance provided through an agreement under section 12.3 of the [Child, Family and Community Service Act](#), during the term of the agreement.
- (1.1) A person eligible to receive a health supplement under subsection (1) (b) (ii) or (d.2) may receive the supplement
- (a) while any person in the family unit is
 - (i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or
 - (ii) aged 65 or more and receiving the federal spouse's allowance or the federal guaranteed income supplement, and
 - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (1.2) A person eligible to receive a health supplement under subsection (1) (c) may receive the supplement
- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
 - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (1.3) A person who was eligible to receive a health supplement under subsection (1) (b) (i) or (iv), (d.1), (d.3) or (f) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (2) A person referred to in subsection (1) (b) or (f) and his or her dependants and a person referred to in subsection (1) (c) cease to be eligible for any supplement under this Division if the person's family unit takes up residence outside British Columbia.

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.

BC Employment and Assistance Rate Tables
Health Supplements and Programs (Updated April 1, 2010)

Supplement	Item	Maximum Amount
Dental	Additional amount that children and adults with the persons with disabilities designation who require anaesthetic in a hospital or private facility may be eligible for	\$1,000 of basic dental treatment per calendar year (Apr 1, 2010)
Diet supplements	Restricted sodium diet	\$10 per calendar month
	Diabetes	\$35 per calendar month (April 1/07)
	Kidney dialysis (when not eligible for kidney dialysis service through Ministry of Health)	\$30 per calendar month
	High protein diet	\$40 per calendar month, plus \$30 towards the purchase of a blender
	Gluten-free diet	\$40 per calendar month
	Dysphagia	\$40 per calendar month, plus \$30 towards the purchase of a blender
	Ketogenic diet (Apr 1/10)	\$40 per month
	Phenylalanine diet (Apr 1/10)	\$40 per month
	Cystic fibrosis	\$50 per calendar month
Medical transportation supplement	Travel allowance related to vehicle transportation	\$0.20 per kilometre
	Allowance for exceptional cases where circumstances warrant a meal allowance	\$4 per meal
Monthly Nutritional Supplement	Dietary items	Up to \$165 per calendar month (Apr 1, 2010)
	Vitamins or minerals	Up to \$40 per calendar month (Apr 1, 2010)
	Clients receiving less than this amount through appeal awards under Schedule C may apply for	\$205 per calendar month

	the monthly nutritional supplement	(Apr 1, 2010)
Natal supplement	Single pregnancy or birth	\$45 per calendar month
	Multiple pregnancy or birth	\$90 per calendar month
Optical services	Eye exam provided by an optometrist	\$44.83
	Eye exam provided by an ophthalmologist	\$48.90
Extended Medical Therapies	Medical Services Plan rate for extensions to acupuncture (April 22, 2008), chiropractic, massage therapy, naturopathy (April 22, 2008), podiatry and physiotherapy services	\$23 per visit
Supplement for alcohol and drug treatment	Per eligible recipient	\$500 per calendar year

The Ministry's position

The Ministry argues that the appellant is not eligible for the \$136.36 difference between the actual cost of food and drink (\$232.26) while receiving out of province medical care during the week of March 29, 2015 and the amount paid (\$96.00) because the Health Supplements and Rates Table stipulates \$4.00 per meal is the maximum allowable for those exceptional cases where circumstances warrant a meal allowance and this was the amount paid. The Ministry paid \$4.00 per meal for 8 full days even though the appellant's treatment finished prior to this and the appellant traveled the day prior to her appointment; the reimbursement included breakfast on the day the appellant traveled and dinner on the day returned, outside of normal practice, so they have interpreted policy in the appellant's favour.

Further, the Ministry argued that the family unit receives federal benefits, and there was insufficient evidence to establish that the appellant could not have used any of this to meet her daily food and drink needs, and the appellant would have had ongoing food costs each day whether she was traveling or not. The Ministry accepted that because the appellant's husband stayed home and she had to purchase bottled water and eat at the hospital cafeteria her circumstances warranted the meal allowance to assist with the extraordinary costs. The meal allowance however is not intended to cover the entire cost for a person's food at each meal.

The Appellant's position

The Appellant argues that the family unit received federal benefits that meet their monthly expenses, but because they had to pay out of pocket for traveling to the medical appointment - \$887.27 – they also had to borrow money to make ends meet until the Ministry repaid most of the expenses in May 2015. The Appellant argues that because she and her husband keep their food costs to a minimum by being frugal, preparing their food at home, and finding deals whenever possible, it is not reasonable to consider traveling food expenses as part of these general food expenses. While attending the medical appointment, she had no refrigeration or available food preparation area. She

had to use a cafeteria at the campus where she stayed for her food needs, and there were no other food facilities available at lower costs. Bottled water and liquids were also required; these added expenses were beyond her usual expenses. The appellant argued that she was told by the treating specialist that because of the associated costs, other BC patients have had to decline referrals to him. The appellant argued that this supported the extraordinary nature of her expenses.

The panel's findings and conclusion

The panel finds that the Ministry's reconsideration decision which held that the appellant was not eligible for additional reimbursement of food and drink costs while traveling and receiving out of province medical treatment the week of March 29, 2015 because she has already received the maximum allowable meal allowance as set out in the Health Supplements and Programs Rate Table for 8 days and because, contrary to Schedule C, Section 2(f)(vi) the family unit has other resources available, specifically federal benefits, was reasonably supported by the evidence and a reasonable application of the applicable legislation in the circumstances of the appellant.

The panel finds that EAPWDR Section 62 and Schedule C, Section 2(1)(f) allow for payment of transportation expenses as a health supplement in the appellant's circumstances. The policy created concerning the medical transportation supplement allowance, intended for exceptional circumstances, is not in conflict with the existing and enabling legislation, and establishes the amount payable - \$4.00 per meal. The Ministry accepted that the appellant's circumstances were exceptional, specifically noting that bottled water and cafeteria food were required by the appellant while obtaining the necessary medical tests away from home. The Ministry interpreted policy broadly in order to provide full per diem reimbursement for all 8 days the appellant was traveling. The Ministry determined that the appellant qualified for the medical transportation supplement allowance, and provided the maximum amount available to the appellant according to existing legislation and policy. Therefore, the panel finds the Ministry reasonably determined the appellant was not eligible for the difference between the food costs and the supplement amount. The panel also finds that is not unreasonable to expect that a portion of monies that would otherwise be used for daily food and liquid consumption over the course of 8 days would be a resource available to apply to the same expenses while traveling.

The panel confirms the Ministry's decision.