

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) May 1, 2015 reconsideration decision denying the Appellant’s request for a health supplement for transportation to an appointment with an optometrist because the Ministry determined that all of the requirements in section 67 and Schedule C section 2 of the Employment and Assistance Regulation were not met. Specifically, the Ministry determined that the Appellant’s request was not for travel:

- To the nearest available specialist in the field of medicine or surgery; or
- To the nearest suitable general hospital.

PART D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) Section 67, Schedule C Section 1 and 2.

PART E – Summary of Facts

The Appellant did not attend the hearing. The Panel confirmed that the Appellant was provided with notice of the hearing and then, in accordance with section 86(b) of the EAR, proceeded with the hearing in the Appellant's absence.

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant receives Persons with Persistent Multiple Barriers assistance.
2. Appellant's Request for Non-Local Medical Transportation Assistance, dated February 23, 2015, in which the Appellant indicated:
 - Departure dates of February 4 "(did)" and February 26, 2015, and return date of February 26, 2015 for appointments in another community.
 - The specialist as Dr. B and the referring medical practitioner as Dr. B – "have special eye equipment".
 - Transportation by van – 130 miles return; estimated cost - \$45 return plus \$10 for meals.
 - "Urgent Appointment. Please help".
 - She was so concerned about her urgent eye test she forgot February 4, 2015; she needs help for transportation; she has to get tested for a specific eye condition.
3. Appellant's April 30, 2015 request for reconsideration in which she stated that:
 - She is very sick; three optometrists thought she had the specific eye condition.
 - The doctors' offices where she lives do not have the machines needed to test for that condition; Dr. B, in another community, is her eye doctor and has the two machines needed to get tested right away.
 - She could not get to see a specialist right away; it would take 9 months.
 - Dr. B does the same tests as a specialist would; he knows the tests needed for her.
 - She needs help, she has many health issues, and she is on the verge of bankruptcy.

In her notice of appeal, dated May 19, 2015, the Appellant wrote that Dr. B would send a letter. She also attached a copy of the Ministry's May 1, 2015 letter advising that on reconsideration she had been denied a health supplement for travel. On that letter, the Appellant wrote a note to Dr. B asking for help with this as she is in such debt. The community where she lives does not have the machines that Dr. B has to test for the specific eye condition.

Because the Appellant did not attend the hearing, the Panel will consider her notice of appeal submissions to be her position for this appeal.

Pursuant to section 22(4) of the *Employment and Assistance Act*, the Panel admits the information in the Appellant's notice of appeal as being consistent with and therefore in support of the information that the Ministry had when it made its reconsideration decision.

At the hearing, the Ministry relied on and reaffirmed its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision denying the Appellant's request for a health supplement for travel was reasonably supported by the evidence and/or was a reasonable application of the applicable legislation in the Appellant's circumstances.

Applicable Legislation

Employment and Assistance Regulation

67(1) Subject to subsection (1.1), the minister may provide any health supplement set out in section 2 [general health supplements] or [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] ...of Schedule A if
- (i) any person in the family unit is a person who has persistent multiple barriers to employment.

Schedule C – Health Supplements

Definitions

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.

Medical Transportation

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
- (i) an office, in a local area, of a medical practitioner or nurse practitioner,
- (ii) the office of the nearest available specialist in a field of medicine or surgery of 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 Parties' Positions

The Appellant's position is that she urgently needs to have her eyes tested for a special medical condition. The closest doctor with the equipment to perform the tests is an optometrist in another community about 65 miles away. The Appellant submitted that she is in debt and cannot pay for transportation for an appointment with that optometrist.

The Ministry's position is that the Appellant is not eligible for a health supplement for transportation because the optometrist with the equipment is not a specialist, such as an ophthalmologist, in the field of medicine or surgery. The Ministry further determined that the Appellant did not provide any information to indicate that her appointment is at the nearest suitable general hospital.

The Panel's Findings and Decision

The Ministry may provide a health supplement for transportation for someone receiving assistance, such as the Appellant, but only for the specific reasons stated in the EAR Schedule C section 2(1)(f). In this case, based on the information provided by the Appellant, the Ministry considered whether the Appellant is eligible for a supplement under Schedule C section 2(1)(f)(ii) or (iii).

In her original request, the Appellant asked for financial assistance for appointments with an optometrist in another community for February 4, 2015 and February 26, 2015. The Ministry, however, in its reconsideration decision only addressed the Appellant's request for a supplement for the February 26, 2015 appointment. The Panel notes that the requests for both appointment dates are supported by the same information from the Appellant.

With respect to the February 26, 2015 appointment request, the Panel finds that the Ministry reasonably determined that an optometrist is not a specialist in the field of medicine or surgery as defined by section 1 of Schedule C. Therefore, the Ministry reasonably concluded that the Appellant did not meet the requirements in section 2(1)(f)(ii) of Schedule C. Further, the Appellant provided no information that her appointment was at the nearest suitable general hospital. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant's request did not satisfy the requirements in Schedule C section 2(1)(f)(iii).

Having considered all of the evidence and the legislation applicable to the Appellant's circumstances, the Panel finds that the Ministry reasonably determined that the Appellant was not eligible for a health supplement for transportation. The Panel confirms the Ministry's reconsideration decision.