

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated August 27, 2015 determined that the appellant was not eligible for assistance with the medical transportation health supplement because her appointments were cancelled and therefore her request does not fit any of the eligible categories for medical transportation under Section 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 ministry was not in attendance at the hearing. After confirming the ministry was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

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

- The appellant's family unit is designated as a Person with Disabilities and is eligible to receive general health supplements under Schedule C, of the EAPWDR.
- A letter from the ministry to an out of town short-term accommodation dated July 31, 2015 which confirmed that the appellant had a reservation for one (1) night's accommodation at the medical rate of \$172.00 plus taxes for August 5, 2015.
- Four (4) Requests for Non-Local Medical Transportation Assistance that were faxed by the appellant to the ministry on August 4, 2015 for treatments in a hospital in another city, on August 6, 11, 18 and 27, 2015.
- A note from a dental office dated July 27, 2015 which confirmed that the appellant has 3 dental appointments scheduled on August 6, 11, 18, 2015 at an out of town clinic.
- An appointment slip for August 27, 2015 for the appellant for "Bone Density" at an out of town hospital.
- A Request for Reconsideration dated August 18, 2015 in which the appellant states that these trips were approved on July 29 and then rescinded on August 2, 2015.

In her Notice of Appeal dated September 3, 2015, the appellant indicated that there is no specialist in her local area who can make the special dentures that she needs and that the ministry has already paid for the dentures.

On appeal, the appellant testified that her caseworker verbally approved her travel on July 31, 2015 and then faxed partially filled forms to her with instructions to complete them and fax them back to the ministry marked "URGENT". The appellant completed the forms and returned them as requested. The appellant indicated that her case worker was leaving on holidays. She stated that the caseworker confirmed that the caseworker would arrange for the accommodation to be paid but requested the appellant pay for the cost of travel from her existing resources, for later reimbursement. The appellant could also attend the ministry office in the out of town location should she require funds.

The appellant stated that she received notice by telephone on August 1 (Saturday) from her medical practitioners in the out of town location that her appointment dates would be changed to August 3. She therefore travelled to the out of town location on August 3, 2015 where she had a series of medical appointments. These follow-up appointments were to be held at different locations; a hospital, medical office and dental clinic. She further stated that sometimes her specialist would have to accompany her to the different locations due to potential complications. However; that same day the appellant learned from the manager at the short-term accommodation, located directly across from the hospital where she would have her procedure, that her accommodation approval for August 5 was cancelled by the ministry. The appellant then phoned the ministry but was not given any explanation. The following day, August 4, 2015, the appellant attended the local ministry office, no reason was given for the room cancellation but she did receive payment for her accommodation for the night of August 3 and \$20 for her travel home. The appellant stated that she had to pan handle to

obtain enough money to return home and that she did not eat for 2 days.

The appellant testified that the ministry has paid for her travel expenses over the last two (2) years for various medical related services and that she cannot afford to pay to travel for these necessary treatments by specialists who are all located out of town. She states that there are less than six (6) denturists in the province that can make the kind of dentures she requires and which she is receiving as part of her general medical care. The appellant added that she has undergone the “Bone Density” procedure that had been scheduled for August 27, 2015 for which she received a medical transportation supplement. The appellant further stated that her medical and dental appointments are now delayed only because she cannot afford to travel for them.

The panel determined that the appellant’s testimony is admissible as evidence under Section 22(4) of the Employment and Assistance Act because it was in support of the record before the minister at reconsideration as it provided particulars about the appellant’s condition and circumstances.

No additional evidence was provided by the ministry on appeal.

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 her appointments were cancelled and therefore her request does not fit any of the eligible categories for medical transportation under Section 2 of Schedule C, of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence.

Relevant Legislation: Schedule C of the EAPWDR

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.

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 argues that as the appellant's appointments at the dental clinic were cancelled, her request does not fit any of the eligible categories for medical transportation; to and from an office, in the local area, of a medical practitioner or nurse practitioner; the office of the nearest available specialist in a field of medicine or surgery if she has been referred to a specialist in that field by a local medical or nurse practitioner; the nearest suitable general hospital or rehabilitation hospital or the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in Section 1 of the Hospital Insurance Act. Therefore, the legislated criteria have not been met.

The appellant argues that the procedures, fittings and treatments for her dentures involved both a surgeon and a periodontist and that a portion of these treatments would occur at the hospital and a portion at the dental clinic. She reports that the procedure and fittings have been pre-paid by the ministry who has also paid for her travel expenses for the last two (2) years. The appellant states that her medical and dental appointments are now delayed only because she cannot afford to travel for

them.

While the panel notes that the appellant's appointments on August 6, 11 and 18 at the out of town dental clinic were cancelled; the panel is troubled that the ministry did not contact the referring medical practitioner to learn about the appellant's other ongoing appointments and about the extent of the treatment and procedures involved relating to her dentistry. The ministry relied solely on the e-mail verification outlining the appointments and a call to the dental assistant and to the appellant, a call which the appellant states was long after she returned home.

The appellant stated that she travelled on August 3 to attend medical appointments at a hospital and was then to attend dental appointments including one on August 6 which had been cancelled. Whether the appellant was informed in advance of the cancellation is disputed. However, the panel finds the ministry's decision not to provide return transportation was unreasonable as the medical transportation subsidy under section 2(f)(ii) of Schedule C of the EAPWDR covers going to and from an approved medical appointment. The appellant states she was only provided with \$20 which was insufficient funds for her return.

The panel finds the ministry's reconsideration decision was not reasonably supported by the evidence and rescinds the decision in favour of the appellant.