



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated 4 December 2015 which determined that the appellant was not eligible for assistance with the medical transportation health supplement because she did not meet the criteria set out in Schedule C, section 2(1)(f) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as she was not attending an appointment to see a medical practitioner or nurse practitioner in her local area or the nearest specialist or attending a hospital.

PART D – Relevant Legislation

EAPWDR, section 62 and Schedule C, section 2(1)(f).

PART E – Summary of Facts

The ministry and the appellant were not in attendance at the hearing. After confirming that they were notified, the hearing proceeded under s. 86 of the Employment and Assistance Regulation (EAR).

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

- The appellant is a sole recipient of disability assistance.
- A Request for Non-Local Medical Transportation Assistance dated 13 November 2015 signed by the appellant requesting the cost of transportation via transit shuttle for a dental appointment to see a dentist at the nearest regional centre, referred by a nurse, for a departure/return date of 7 December 2015, that the appellant needed a medical escort and that her special needs were a scooter and a cane.
- A Consultation Slip dated 13 November 2015 by the Health Authority, signed by a nurse practitioner, confirming that the appellant needed accompaniment to all her medical appointments and that she needed to travel for a dentist appointment because “no local dentist are covered by her ministry assistance program”. No date or location was indicated on that document for the dentist appointment.
- The appellant filed her request with the ministry on 19 November 2015.
- In her Request for Reconsideration dated 30 November 2015, the appellant indicated that her dental appointment was a medical appointment and that her request was for \$10 transit fee.
- According to the ministry’s documents, the dentist in question is registered with the College of Dental Surgeons of BC (CDSBC) but not with the College of Physicians and Surgeons of BC (CPSBC).

In her Notice of Appeal dated 14 December 2015, the appellant indicated “Insufficient funds for medical appointments required \$120 / per month, not \$30.”

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 she did not meet the criteria set out in Schedule C, section 2(1)(f) of the EAPWDR was a reasonable application of the legislation or reasonably supported by the evidence.

The applicable legislation can be found at Schedule C of the EAPWDR that first defines who qualifies as a specialist:

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*.

And 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 appellant argued that she disagreed with the ministry decision because her appointment at the regional centre was certainly medical and to prove her wrong. She also argued that her monthly funds for medical appointments were insufficient.

The ministry argued that since the appellant was eligible to receive general health supplements under s. 62 of the EAPWDR because she was a recipient of disability assistance, medical transportation could only be funded under s. 2 (f) of Schedule C of the EAPWDR, either to the office of the local medical practitioner or nurse practitioner or the nearest available specialist in the field of medicine or surgery. Since a dentist is not a medical or nurse practitioner or a specialist in the field of medicine or surgery under the legislation, the appellant was not eligible for medical transportation. The ministry argued she did not meet any of the other requirements for medical transportation.

Panel decision:

There is no dispute that the appellant is eligible for health supplement under s. 62 of the EAPWDR. The panel notes that the evidence demonstrates the appellant did not go to a local dentist but traveled to the nearest major centre, as recommended by the nurse. The ministry's authority in terms of medical travel is very limited as provided by s. 2 (1)(f), Schedule C of the EAPWDR and, as in the circumstances of the appellant, when medical travel must take place outside the local area of the patient, the ministry may only provide medical transportation supplement for travel to the nearest suitable hospital or to the office of the nearest available specialist and only if the specialist is recognized in accordance with the bylaws made by the board for the College of Physicians and Surgeons of BC. In this case, the panel finds that while the dentist is registered with the CDSBC there was no evidence he was a specialist as defined by s. 1, Schedule C of the EAPWDR. No evidence was presented that the appellant was going to a hospital.

The evidence did not show that the appellant would have been eligible for medical transportation under any of the other requirements of s. 2 (f) of Schedule C of the EAPWDR. For instance, the appellant provided no evidence that she did not have the resources to pay the \$10 transit fee, return, from her community to the regional centre.

The ministry correctly reviewed s. 69 of the EAPWDR that states:

69 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,
- (c) a person in the family unit is eligible to receive premium assistance under the *Medicare Protection Act*, and
- (d) the requirements specified in the following provisions of Schedule C, as applicable, are met:
 - (i) paragraph (a) or (f) of section (2) (1);...

The panel finds that the ministry reasonably determined that s. 69 of the EAPWDR does not apply because the appellant is a recipient of disability assistance, and eligible for the health supplement at issue and because under s. 69 the criteria of s. 2 (1)(f) of Schedule C must still be met and, as mentioned above, in this case they were not.

In conclusion, the panel finds the ministry reasonably determined the dentist was not a "specialist" under the legislation and consequently, reasonably determined the appellant was not eligible for the medical transportation supplement under s. 2 (f) of the EAPWDR. Therefore, the panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.