

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision of March 9, 2016 wherein the ministry denied the appellant a health supplement for non-local medical transportation to cover overnight accommodation and meal allowance for himself and his caregiver because he did not meet the legislated criteria set out in in Schedule C Section 2(1)(f) of Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”).

PART D – Relevant Legislation

EAPWDR – section 62, Schedule C section 2(1)(f)

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration included in the following:

The appellant is a recipient of disability assistance and underwent cataract surgery on February 18, 2016.

- Appellant's request for non-local medical transportation assistance submitted on January 7, 2016 for a health supplement to cover transportation cost for him and his caregiver to travel from his community ("Comm A") to a hospital in another community ("Comm B"); the appellant requested two nights' hotel accommodation for two people, gas allowance and meal allowance for a total of \$557.60.
- A prescription form from the appellant's general practitioner dated January 27, 2016 indicating that the appellant would need to stay in Comm B for two nights – February 18 and 19, 2016 – due to eye surgery and specialist follow-up.
- Hospital documentation confirming the procedure date of February 18, 2016 at 11:30 am. The procedure was described as surgical daycare, with the patient to go home the day of the surgery with an escort. The appellant was directed to arrive two hours prior to the procedure – if he arrived late, the procedure could be cancelled.
- The appellant is a sole recipient of disability assistance with no dependents, and receives \$1,646.46 per month in assistance from the ministry (\$906.42 disability assistance, \$100.00 volunteer supplement, \$205.00 monthly nutritional supplement, and a \$435.04 tribunal award).
- The post-operative ophthalmology appointment was scheduled for February 19, 2016 at 1:30 pm in Comm B.
- The distance between Comm A and Comm B is 110 kilometers.

The appeal record contained a number of other documents that are not material to the issue in this appeal.

In his oral testimony the appellant stated that he had to be at the hospital by 9:30 on February 18, 2016 and his support worker didn't commence work until 8:30 am. He said that there were no funds available for the worker to start her shift earlier. He could not have gotten to the appointment on time and was unwilling to risk the chance of the surgery being cancelled so he went to Comm B the day before and incurred overnight accommodation costs for the night of February 17, 2016 as well as February 18, 2016. The appellant reiterated that his overall travel expenses were \$557.60 for the two nights which included his meals at \$100.00 per day and mileage at .20 cents per kilometer.

In his oral testimony the appellant stated that his expenses are higher than the amount documented by the ministry – his rent is \$700.00, not \$350.00, and his utilities are \$367.00 monthly, not \$100.00. He stated that he did not receive the second mileage payment approved by the ministry.

No documents were submitted in support of this testimony.

The panel has accepted this oral testimony as evidence in support of the information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*.

The ministry relied on its reconsideration decision.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of March 9, 2016 wherein the ministry denied the appellant a health supplement for non-local medical transportation to cover the overnight accommodation costs for himself and his caregiver as well as a meal allowance because he did not meet the legislated criteria set out in in Schedule C Section 2(1)(f) of the EAPWDR.

The legislation considered: EAPWDR

General health supplements

Section 62

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) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is a dependent child, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Schedule C - Health Supplements

General health supplements

Section 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, (B.C. Reg. 317/2008)
 - (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's position is that it is not reasonable to expect him to go from Comm A to Comm B and arrive to be checked in at the hospital by 9:30 when it is 110 kilometers between the two communities, his support worker does not arrive at his home until 8:30 am, and there were no funds available to start her shift earlier. He is not able to drive and the medical appointment required that he have an escort after the surgical procedure. The appellant also disagrees with the conclusion that he was not entitled to a lunchtime meal allowance, arguing that he does not have sufficient funds within his monthly disability assistance due to other expenses, including his rent and utilities.

The ministry's position is that the least expensive and appropriate option was for the appellant to be driven to and from Comm A and B on February 18th and 19th. The ministry acknowledged that the appellant had to be in Comm B by 9:30 am on February 18th, but because Comm B was only 110 kilometers away he should have started his day earlier so that he could complete a return trip in the same day. This also applied to the February 19 specialist appointment in Comm B, scheduled for 1:30 pm. Based on a review of the appellant's

income and shelter costs the ministry was not satisfied that the appellant did not have the resources to meet lunchtime expenses from the \$1,646.46 he receives monthly.

Panel Decision:

Schedule C Section 2(1)(f)(i)(ii) and (iii) of the EAPWDR stipulates that the ministry may provide a health supplement for medical transportation if it is the least expensive appropriate mode to or from an office in the local area of a medical practitioner; or the office of the nearest available specialist if the person has been referred to a specialist, or the nearest suitable general hospital.

The panel finds the ministry's reconsideration decision that determined the appellant is not eligible for a health supplement that includes overnight accommodation on February 17th, 2016, the night before scheduled morning surgery, was not reasonably supported by the evidence, nor was it a reasonable application of the legislation. The evidence is that the appellant's support worker/ driver was not available until 8:30 on February 18, 2016, the appellant had to be at the hospital in Comm B by 9:30 on February 18, 2016 or risk surgery cancellation, and it is 110 kilometer distance between Comm A and Comm B or an estimated hour and ¼ drive with unknown road conditions. It was not reasonable to deny overnight accommodation the night before the February 18, 2016 9:30 am surgical check-in requirement.

The panel finds that as the follow up appointment with the specialist scheduled on February 19, 2016 was for 1:30 pm, and noting the 110 kilometer distance between Comm A and Comm B, the ministry reasonably determined that the least expensive appropriate mode of transportation was a return trip on the same day without the need for overnight accommodation.

The panel finds the ministry's decision that the appellant was not eligible for a health supplement that included a meal allowance for lunch on February 18 and 19, 2016 because they were not satisfied he did not have the resources to meet this additional costs was reasonably determined. Although the appellant disagrees with this conclusion, money for food is provided to disability assistance recipients through the monthly support supplement, and there was insufficient evidence to establish that the resources were not available to the appellant.

Based on the foregoing analysis the panel finds that the ministry's reconsideration decision determining that mileage for a return trip on February 18, 2016 was the least expensive and appropriate medical transportation option is not a reasonable application of the legislation in the circumstances of the appellant and accordingly rescinds the decision pursuant to sections 24(1)(b) and 24(2)(b) of the Employment and Assistance Act.

In summary, the specific ministry decisions under appeal are the denial of the overnight accommodation on February 17, 2016, the denial of overnight transportation on February 18, 2016, and the denial of a lunchtime meal allowance on both days. The decision is rescinded because the denial of overnight transportation on February 17, 2016, in the appellant's particular circumstances, was not a reasonable application of the legislation as outlined above.

Therefore, the panel rescinds the ministry's decision.