



PART C – Decision under Appeal

The decision under appeal is the Ministry of Children and Family Development’s (“Ministry’s”) reconsideration decision dated May 13, 2016, which held that the appellant was not eligible for a health supplement under Schedule C, s. 2(1)(f) of the *EAPWDR* for all of the medical transportation costs that she claimed.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”), ss. Schedule C, s. 2(1)(f)

PART E – Summary of Facts

Information before the Ministry at reconsideration

On April 7, 2016 the appellant contacted the Ministry and submitted a request for medical transportation for an appointment in a hospital in a city approximately a three-hour drive from her home, scheduled for April 11, 2016 at 11 am. The appellant requested a two-day car rental, stating that she planned to drive to the city of the appointment the day before and return on the day of the appointment.

On April 8, 2016, the appellant contacted the Ministry to determine the status of the request. The status was updated to urgent.

On April 14, the appellant submitted receipts for the trip, which the customer service representative said would be scanned in and attached to the request, which had not yet been processed.

On April 20, 2016, the Ministry determined the appellant was eligible for \$93.20 for “mileage” for the 466 km round trip, but not for the rental car or the hotel room. The Ministry noted in its initial decision that the appellant could have taken a Greyhound bus instead of renting a car. The appellant advised the Ministry that she would “get a doctor to write a note saying it would be too much to travel in one day.”

Documents before the Ministry at reconsideration included the following:

- A letter addressed “To Whom It May Concern” submitted by the appellant at reconsideration in which she noted the following:
 - On another occasion she had been reimbursed for a car rental when she had a procedure done at the same hospital;
 - On April 11, 2016 someone from the Ministry contacted her to see if she had gone to her appointment. The appellant told the Ministry representative the amount of her hotel and car rental expenses over the phone and the Ministry representative gave no indication that these were not eligible expenses;
 - There is no longer any Greyhound bus service in the town where the appellant lives, and the bus company that does service the town does not operate on Sundays (the day before the appellant’s appointment) and would not have arrived until 10 minutes after the start of her appointment on the Monday (the day of her appointment);
 - She chose the cheapest hotel she could find and rented an economy vehicle with no extra insurance coverage in order to “keep the costs as low as possible”; and
 - She suffers from an anxiety/stress disorder and arriving late by bus for her appointment would not be appropriate for her condition;
- A bus schedule for the bus company that services the town where the appellant lives, showing no service in the appellant’s town on Sunday, and that the Monday morning bus would arrive in the city of her appointment 10 minutes after the scheduled start of her appointment;
- A Request for Non-local Medical Transportation Assistance, completed by the appellant on

April 7, 2016, requesting a two-day car rental and a hotel stay;

- A hotel receipt for the night of April 10, 2016 for \$85.75;
- A car rental company receipt for a car rental from April 10, 2016 at 12:27 to April 12, 2016 at 08:00 for a total of \$124.50, comprised of one day charged at \$54.98 (with 200 km free) and one day at \$39.90 (with extra 200 km free);
- A gas receipt dated April 11, 2016 at 10:39, from the city of the appointment, for \$40.00; and
- A gas receipt dated April 12, 2016 at 9:09, from the town where the appellant lives, for \$25.25.

At reconsideration, the Ministry found the original decision to pay mileage unreasonable because the appellant does not own a car. The Ministry determined that assistance with a rental vehicle is approved because the appellant does not own her own car and would not arrive at the appointment on time if she took the bus, but the car rental was only approved for one day as the trip could have been completed within 24 hours. The Ministry allowed the appellant half the costs of the two-day rental ($\$124.50/2 = \62.25). The Ministry at reconsideration also approved assistance with gas costs. The Ministry denied the hotel costs stating it was reasonable that the appellant could have driven to the 11 am appointment, as it is less than a three-hour drive.

Information provided on appeal

On the appellant's notice of appeal, she stated that she only rented the car for one day, not two, and that she was asked by the manager to bring back the car on the morning rather than the afternoon because the manager was not available in the afternoon. She also stated that the hotel cost was reasonable as one needs to arrive 30 minutes before the appointment, because of the difficulty of travelling so early, and because driving almost six hours in one day with her health issues is not reasonable. The appellant also provided a letter from the Station Manager of the car rental company, dated May 30, 2016 and addressed "To Whom It May Concern", which states that it was cheaper to charge the appellant for two days rather than charge her for one day at \$54.98 plus a per kilometer fee, which saved the appellant \$30 of mileage cost; and that the manager asked the appellant to return the car on the morning after she returned because it was more convenient for the manager.

The appellant did not attend the hearing.

The Ministry relied on the reconsideration summary provided in the Record of Ministry Decision, and provided the following information in answer to questions from the panel:

- This was an urgent travel request. Ministry policy is to process urgent travel requests within 24 hours. The Ministry representative was not able to explain why this request was not processed within 24 hours;
- The Ministry has no guidelines concerning the distance a person with disabilities should be expected to drive in a day; and
- The appellant's previous trip to the same medical facility, for which she was reimbursed the costs of a rental car, was completed in one day.

The Ministry was not able to refer to where in the Regulation "hotel costs" are normally considered.

Admissibility of new evidence

The Ministry did not object to the admission of the letter from the car rental company.

The panel admitted the letter from the car rental company, under s. 22(4) of the *Employment and Assistance Act* as information in support of the information available at reconsideration. The information serves to substantiate and explain the previous information that was in the car rental receipt that was and before the Ministry at reconsideration. The panel also admitted the oral evidence provided by the Ministry representative under s. 22(4) as information in support of the information available at reconsideration.

PART F – Reasons for Panel Decision

Issue on appeal

The issue is whether the Ministry's decision that the appellant was not eligible for a health supplement for all of the medical transportation costs that she claimed as a health supplement—specifically the cost of a one-night hotel stay and half the cost of a two-day car rental—is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The relevant legislation: *Employment and Assistance for Persons with Disabilities Regulation*

Schedule C

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 Panel's Decision

An applicant for a health supplement to cover the cost of transportation must meet the requirements of Schedule C, section 2(1)(f) of the Regulation, specifically:

- the applicant must be eligible under section 62 of the Regulation;
- the least expensive mode of transportation must be used to or from the office or hospital;
- 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
- there are no resources available to the person's family unit to cover the cost.

In this case, the only dispute concerns whether the expenses submitted by the appellant were the

least expensive mode of transportation.

The appellant's position, based on her written statement at reconsideration, her notice of appeal, and the evidence admitted by the panel, is that she kept transportation costs as low as possible; she only rented the car for one day, not two but the car rental company charged her for two days because that was cheaper than being charged a one-day rental fee (since the one-day rental only came with 200 free kilometers and she had to travel further than that). The appellant's position with respect to the hotel cost is that it was reasonable because of the difficulty of travelling so early and driving almost six hours in one day with her health issues. The appellant's submission attached to her reconsideration request implies she thought it unfair of the Ministry to not tell her the costs would not be reimbursed until after she had to make the expenditures.

The Ministry's position is that the hotel was not a reasonable cost as there was no medical evidence to suggest the appellant could not have driven to the appointment before 11 am and returned the same day. With respect to transportation costs, the Ministry's position is that, while renting a car was an appropriate mode of transportation, a two-day car rental is not reasonable as the whole trip could have been completed within 24 hours.

Reimbursement for hotel costs

The panel notes that other than the appellant's self-report that she suffers from anxiety/stress disorder, there was no medical evidence before the Ministry at reconsideration to substantiate her assertion that she could not drive to the appointment in the morning and return the same day; the trip was just less than three hours one-way, or six hours return; and the appellant had previously made the trip to the same medical facility in one day. Based on the information that was before the Ministry, the panel finds the Ministry's decision that the appellant was ineligible for a health supplement to cover hotel costs because she could have driven to the appointment on the morning of the appointment and returned the same day, and therefore the hotel cost was unnecessary, was reasonably supported by the evidence.

The panel also notes that "hotel" costs are not specifically mentioned in Schedule C, section 2, but declines to consider whether hotel expenses fall within "mode of transportation" under section 2(1)(f) since, in any event, the Ministry's determination that the cost was not necessary is reasonable on the evidence.

Reimbursement for rental car costs

The panel accepts the evidence in the letter from the car rental company, and on the invoice from the car rental company, and finds as fact that it was cheaper to charge the appellant for a two-day rental, with additional free kilometers rather than a one-day rental with a \$0.20/km charge for every kilometer over 200 km. The two-day charge with free kilometers is less expensive than a one-day charge with mileage regardless of whether the actual kilometers driven (542 km) or the Ministry's estimation (466 km round trip) is used to calculate the mileage. The Ministry accepts that a car rental was the appropriate mode of transportation for the appellant. Based on the letter from the car rental company, and considering all of the above, the panel finds that a two-day car rental was, for this trip, the least expensive appropriate mode of transportation as per Schedule C, section 2(1)(f). Therefore, the panel finds the Ministry's decision to refuse a health supplement for transportation costs for a two-day car

rental to not be a reasonable application of the legislation in the circumstances of the appellant.

Conclusion

The Panel finds the Ministry reasonably determined the appellant was ineligible for a health supplement to cover hotel costs because she could have driven to the appointment on the morning of the appointment and returned the same day, and therefore the hotel cost was unnecessary. However, the Panel finds the Ministry's decision to refuse a health supplement for transportation costs for a two-day car rental not to be a reasonable application of the legislation in the circumstances of the appellant since the two-day car rental was cheaper than a one-day car rental. Therefore, the panel rescinds the Ministry's reconsideration decision, and returns it to the Ministry for a decision as to the amount of the appellant's eligibility.