

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision dated December 4, 2015, which denied the appellant's request for a supplement to cover the cost of transportation to an office of a dentist. The ministry found that the request for a health supplement did not meet the legislated requirement of Schedule C, Section 2(1)(f) of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) because:

- A dentist is not a medical or nurse practitioner [Section 2(f)(i)];
- A dentist is not a specialist in a field of medicine or surgery and information has not been provided to show there is a specialist who also works in the dentist office [Section 2(f)(ii)];
- There is no information that the dentist is located in a general or rehabilitation hospital and that the appellant would receive a benefit under the *Medicare Protection Act* or the *Hospital Insurance Act* [Section 2(f)(iii)(iv)(v)]; and,
- There is insufficient information that the appellant has no resources to cover the cost [Section 2(f)(vi)].

The ministry also found that the appellant is not eligible for a supplement for a life threatening health need as set out in Section 69 of the EAPWDR.

## PART D – Relevant Legislation

*Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), Sections 62 and 69, and Schedule C, Section 2(1)(f)

*Interpretation Act*, Section 29

## PART E – Summary of Facts

Neither the appellant nor her advocate attended the hearing. After confirming that both were notified of the hearing, the hearing proceeded under Section 86(b) of the *Employment and Assistance Regulation*.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Request for Non-Local Medical Transportation Assistance dated November 13, 2015 in which the appellant requested travel by bus, described as “transit, shuttle,” from her city to another city for an appointment with a specialist identified as “dental appointment” in December 2015, with the name of the referring nurse practitioner;
- 2) Consultation Slip dated November 13, 2015 which sets out that the appellant requires accompaniment to all her medical appointments because she suffers from severe anxiety. This is exacerbated when required to travel out of her home community. She must travel for this dentist appointment because no local dentists are covered by her ministry assistance program; and,
- 3) Request for Reconsideration dated November 30, 2015.

In her Request for Reconsideration the appellant wrote that she disagrees with the ministry’s decision and that a dental appointment is most certainly medical and her request was for a total of \$10.

### **Additional Information**

In her Notice of Appeal dated December 14, 2015, the appellant expressed her disagreement with the ministry’s reconsideration decision and wrote “no funds - sorry ministry incorrect on remaining monthly funds.”

Prior to the hearing, the appellant provided additional documents in a series of 8 submissions including over 780 pages, which included the following:

- 1) Resume for the appellant’s advocate;
- 2) Copy of business card for the MLA and a health products company;
- 3) Photographs of the appellant; and other photographs that are unviewable;
- 4) Undated copies of identification cards for the appellant and her advocate;
- 5) Undated handwritten calculation of medical transportation;
- 6) Undated prescription for Ensure and a knee brace and a new mattress for the appellant’s advocate;
- 7) Undated quotes for nebulizer;
- 8) Undated handwritten notes of appointments for the appellant’s advocate and Request for local medical transportation assistance;
- 9) Undated special needs pass application to recreation complex for appellant and her advocate;
- 10) Ministry notes relating to the appellant’s advocate on April 29, 1997, June 2, 1997, November 15, 2001;
- 11) Excerpt from ministry file history notes for the appellant for May 1998 to June 2015;
- 12) Rental Information Required form dated May 28, 1998 from the appellant;
- 13) Note dated June 1, 1998 from the appellant to the ministry;
- 14) Statement of Account for telephone dated June 15, 1998 for the appellant;
- 15) Request for special diet for the appellant’s advocate dated June 18, 1998;
- 16) Ministry file notes for October 5, 1998 relating to the appellant;
- 17) Letter dated October 6, 1998 from the ministry to the appellant;
- 18) Overdue notice dated October 10, 1998 for premium due from the appellant;
- 19) Letter dated November 16, 1999 from a medical professional regarding the appellant;

- 
- 20) Receipts for rent and damage deposit dated November 24, 1999 for the appellant and the appellant's advocate;
  - 21) Request for Aids or Adaptations dated January 20, 2000 for the appellant;
  - 22) Request for therapeutic diet and medical transportation dated May 9, 2000 for the appellant;
  - 23) Medical Equipment Request & Justification (MERJ) dated May 11, 2000 for an electric scooter for the appellant;
  - 24) Nuclear Medicine Consultation dated May 25, 2000 regarding the appellant;
  - 25) Letters dated May 30, 2000 and March 8, 2001 from a physiotherapist regarding the appellant;
  - 26) Letter dated June 2, 2000 from the ministry to a physician regarding the appellant;
  - 27) Diagnostic Imaging report dated July 20, 2000 for the lumbar spine of the appellant's advocate;
  - 28) Newspaper article dated November 8, 2000 regarding a request for a motorized scooter by the appellant;
  - 29) Copies of bank pass book for January through December 2000 and 2001 and March- April 2003;
  - 30) Laboratory Requisition dated February 2001 for the appellant;
  - 31) Memo dated February 19, 2001 and March 7, 2001 from the appellant to her worker;
  - 32) Appointment confirmation for the appellant with a physician on February 22, 2001;
  - 33) Online article dated March 5, 2015 regarding the appellant's transportation allowance;
  - 34) Message dated March 8, 2001 from the appellant to her worker;
  - 35) Individual income tax return information for the appellant dated March 19, 2001;
  - 36) Employment Initiatives form dated May 2, 2001 regarding the appellant;
  - 37) Prescription dated July 7, 2001 for physiotherapy for the appellant with appellant's handwritten note;
  - 38) Ministry request form dated July 7, 2001, August 1, 2002, February 4, 2003 for transportation allowance for the appellant;
  - 39) Letter dated July 17, 2001 from a physiotherapist regarding the appellant;
  - 40) Handwritten letter dated July 17, 2001 from the appellant to the ministry;
  - 41) Ministry allowances Query dated July 24, 2001 and update for the appellant dated July 31, 2001;
  - 42) Letter dated August 17, 2001 from the ministry regarding the appellant;
  - 43) Handwritten calculation of medical transportation for the appellant for September 2001 to February 2002;
  - 44) Receipts dated November 29, 2001 and November 30, 2002 for rent from the appellant and the appellant's advocate;
  - 45) Ministry email dated January 29, 2002 regarding optical request for the appellant;
  - 46) Transportation Allowance request dated February 11, 2002 for the appellant;
  - 47) Requests for a diet and transportation allowance dated February 25, 2002 for the appellant's advocate;
  - 48) Receipt from health product provider dated March 20, 2002 for the appellant;
  - 49) Prescription dated April 9, 2002 for a cane for the appellant;
  - 50) Purchase Authorization dated April 9, 2002 for the appellant;
  - 51) Medical Transportation request dated August 1, 2002 for the appellant;
  - 52) Income Verification dated August 1, 2002 for the appellant's advocate;
  - 53) Email dated August 29, 2002 attaching a page from the BC Benefits Manual, legislation and policy for medical transportation;
  - 54) Receipts for rent dated November 1, 2002 for the appellant and her advocate, November 30, 2002 for the appellant, December 2, 2002 for the appellant's advocate, February 1, 2003 for the appellant;
  - 55) Verification of Residence for November 29, 2002 and December 11, 2002 for the appellant;
  - 56) Earnings Statements for the periods November 15, 2002 through January 31, 2003 for the appellant;
  - 57) BC Assessment search dated December 3, 2002;
  - 58) Ministry information form dated December 12, 2002 relating to the appellant;
  - 59) Prescription dated January 17, 2003 for the appellant's advocate for a cane and back brace and a request for a transportation allowance;
  - 60) Letter dated January 24, 2003 from the ministry to the appellant for a rent receipt;
  - 61) Overpayment Chart for the period November 2001 through February 2003 for the appellant;

- 
- 62) Transportation Allowance request dated February 4, 2003 for the appellant and medical diet allowance request for the appellant's advocate;
  - 63) HandyDART Program form stamped received February 6, 2003 in relation to the appellant;
  - 64) Releases of Information dated February 7, 2003, June 23, 2005 and January 19, 2006 for the appellant's advocate from the appellant;
  - 65) Newspaper article dated February 15, 2003 regarding the appellant's status;
  - 66) Electronic Deposit Payment Request for the appellant's advocate dated February 17, 2003;
  - 67) Investigation Referral dated February 20, 2003 with illegible newspaper article attached;
  - 68) Request for additional transportation costs dated March 5, 2003 for the appellant;
  - 69) Letters dated March 10, 2003 and June 8, 2006 from the ministry to the appellant and her advocate regarding administration;
  - 70) Investigation Referral dated March 17, 2003 for the appellant;
  - 71) Letter dated March 25, 2003 from the ministry to the appellant's advocate regarding an eligibility review;
  - 72) Cheque History Query for the appellant dated April 8, 2003;
  - 73) Furniture Order Form dated April 11, 2006 and invoice for the appellant;
  - 74) Investigation Registration and Conclusion, ministry notes, Repayment Agreement and Investigation worksheet dated April 23, 2003 for the appellant;
  - 75) Earnings Statement for the appellant for the period ending April 30, 2003;
  - 76) Medical Diet Allowance and Medical Transportation Assistance requests dated May 26, 2003 for the appellant and the appellant's advocate;
  - 77) Letter from the bank regarding the appellant and her advocate stamped May 26, 2003;
  - 78) Medical Diet Allowance request for the appellant's advocate dated May 27, 2003;
  - 79) GST Credit statement dated July 4, 2003 regarding the appellant;
  - 80) Monthly Report to the ministry dated August 5, 2003 by the appellant;
  - 81) Letter dated August 27, 2003 from an OT regarding the appellant;
  - 82) Request for information for transportation allowance for the appellant's advocate dated September 2003;
  - 83) Medical Diet Allowance request dated April 22, 2004 for the appellant's advocate and medical transportation funds for the appellant's advocate;
  - 84) Consumer Report dated June 8, 2004 for the appellant;
  - 85) Enquiry for the appellant's advocate dated June 8, 2004;
  - 86) Employment and Assistance for Persons With Disabilities review dated June 14, 2004 for the appellant;
  - 87) Prescription note dated June 16, 2004 for HandyDART for the appellant and the appellant's advocate and for a diet allowance for the appellant's advocate;
  - 88) Emergency Record for the appellant's advocate dated July 4, 2004;
  - 89) Shelter Information dated July 19, 2004 for the appellant's advocate;
  - 90) Letter dated September 14, 2004 from the Assistant DM to the appellant's advocate;
  - 91) Incident Report dated December 22, 2004 from the third party administration office;
  - 92) Direct deposit instructions dated December 22, 2004 for the appellant's advocate;
  - 93) Handwritten note by the appellant's advocate to the RCMP dated December 22, 2004 and to the third party administrator;
  - 94) Fax dated January 5, 2005 requesting cream for the appellant;
  - 95) Handwritten note dated January 7, 2005 from the appellant to the ministry;
  - 96) Letter dated January 7, 2005 from the third party administrator to the appellant's advocate;
  - 97) Letter dated January 11, 2005 from the Ombudsman to the appellant and her advocate and to the ministry;
  - 98) Quotation dated February 10, 2005 for rental of nebulizer for the appellant;
  - 99) Purchase Authorization dated February 17, 2005 for nebulizer rental for the appellant;
  - 100) Letters dated February 8 and February 18, 2005 from the ministry to the appellant's advocate for administration;

- 
- 101) Shelter Information dated March 1, 2005 for the appellant;
  - 102) Prescriptions dated March 10, 2005 for the appellant and her advocate for clothing and shoes;
  - 103) MERJ dated March 19, 2005 for a motorized scooter for the appellant;
  - 104) Advocate's request for a crisis supplement for the appellant and her advocate stamped March 19, 2005;
  - 105) Ministry file notes for the appellant's advocate dated March 24, 2005;
  - 106) Application for Special Transportation Subsidy for the appellant's advocate dated April 2, 2005 and for the appellant dated June 23, 2005;
  - 107) Prescription dated April 20, 2005 for the appellant's advocate for a walker and diet allowance;
  - 108) Intent to Rent for June 2, 2005 for the appellant;
  - 109) Letter dated June 10, 2005 from the ministry denying the appellant's request for a scooter;
  - 110) Estimate dated August 8, 2005 for the appellant and her advocate for household items from charitable organization;
  - 111) Receipts stamped received August 2005;
  - 112) Last page of tenancy agreement dated August 26, 2005 with the appellant and her advocate as tenants;
  - 113) Prescriptions dated September 1 and 9, 2005 for a walker and a cane and a special diet for the appellant's advocate;
  - 114) Requests for medical transportation funds dated October 20, 2005 and June 21, 2006 for the appellant's advocate;
  - 115) Request for medical transportation funds dated October 28, 2005 for the appellant;
  - 116) Taxi fare receipts for 2005, 2006, 2007;
  - 117) Transportation Supplement letter dated January 25, 2006 for the appellant's advocate and the appellant;
  - 118) Prescription dated February 6, 2006 for a nebulizer for the appellant;
  - 119) MERJ dated February 9, 2006 for a scooter for the appellant;
  - 120) Ministry emails dated March 29, 2006 and May 18, 2006 regarding the appellant;
  - 121) Letter dated May 10, 2006 from the appellant to the ministry;
  - 122) Quote dated May 26, 2006 for scooter rental and letter from an OT for the appellant and Quote for scooter purchase;
  - 123) Letters dated June 8 and December 19, 2006 from the ministry to the appellant for administration and also to the appellant's advocate;
  - 124) Rent receipt dated December 20, 2006 for the appellant's advocate and the appellant;
  - 125) Hearing test dated January 4, 2007 for the appellant;
  - 126) Bank Profile for the appellant's advocate dated January 11, 2007 and also for the appellant;
  - 127) Letter dated June 15, 2007 from the ministry to the appellant's advocate regarding medical transportation supplement request;
  - 128) Handwritten notes dated June 27, 2007 regarding a transportation allowance for the appellant's advocate;
  - 129) Request for Reconsideration dated June 29, 2007 for the appellant for another matter and for the appellant dated July 15, 2007;
  - 130) Letter dated July 17, 2007 from the ministry to the appellant's advocate regarding the file administration;
  - 131) Letter dated July 25, 2007 from a physician regarding the need for HandyDART and taxi savers for the appellant's advocate;
  - 132) Email dated July 25, 2007 from third party administrator to ministry;
  - 133) Handwritten notes by appellant's advocate "funds required for medical appointments" dated July 26, 2007 and Promise to Repay date July 30, 2007;
  - 134) Letters dated August 2, 3, 8 and 13, 2007 confirming appointments for the appellant;
  - 135) Letter dated August 3, 2007 in which a physiotherapist wrote that the appellant feels she would benefit from physiotherapy;

- 
- 136) Excerpt of an online article dated August 14, 2007 regarding the appellant's advocate;
  - 137) History Report for the appellant dated November 1, 2007;
  - 138) Repayment Account Record for the appellant dated November 6, 2007;
  - 139) Ministry file notes dated November 7, 2007 regarding the appellant;
  - 140) Revised overpayment chart dated November 7, 2007 for the appellant;
  - 141) Letter dated November 28, 2007 from the ministry to the appellant;
  - 142) Handwritten rent receipts dated January 15 and 23, 2008 for the appellant and her advocate;
  - 143) Prescription and attached notes dated January 19, 2009 that the appellant's advocate is unable to use public transportation;
  - 144) Letter dated May 6, 2009 from the ministry to the appellant's advocate regarding medical transportation supplement;
  - 145) Request for Reconsideration dated August 16, 2009 for the appellant's advocate relating to another matter;
  - 146) Letter date stamped August 17, 2009 from the ministry denying medical transportation funds for the appellant;
  - 147) Letter dated February 4, 2010 from the Tribunal to the appellant's advocate enclosing a decision;
  - 148) Handwritten note dated February 8, 2010 by the appellant's advocate requesting an appeal court application concerning his medical transportation;
  - 149) Letter dated February 25, 2010 from the then premier to the appellant;
  - 150) Letter dated June 29, 2010 from the ministry to the appellant's advocate approving request for lumbar back support;
  - 151) Note dated September 28, 2010 from orthotist;
  - 152) Orthopedic Appliance Quote dated September 29, 2010 for the appellant's advocate;
  - 153) Taxi Saver receipts and notes dated October 12, 2010;
  - 154) Quote date stamped October 26, 2010 to the appellant for towing a travel trailer;
  - 155) Emergency/Ambulatory Care Clinical Record dated December 1, 2010 for the appellant's advocate;
  - 156) Letter dated December 19, 2010 from the ministry to the appellant's advocate regarding a Release of Information for the appellant;
  - 157) MERJ dated March 25, 2011 for a scooter for the appellant's advocate;
  - 158) Report of an OT dated April 6, 2011 regarding the request for a scooter by the appellant's advocate;
  - 159) Handwritten notes dated April 15, 2011 requesting reconsideration of \$300 for care giver costs each month, single bed and medical transportation for the appellant's advocate and request for medical transportation funds as well for the appellant;
  - 160) Notice of Appeal for the appellant's advocate for other matters dated April 27, 2011 and October 19, 2009;
  - 161) Letter dated May 18, 2011 from the ministry to the appellant's advocate regarding administration;
  - 162) Prescription dated May 19, 2011 for a single mattress for the appellant's advocate;
  - 163) Orthoses Request and Justification dated May 19, 2011 for the appellant's advocate;
  - 164) Single bed and linen pack delivery dated May 30 and 31, 2011 for the appellant's advocate;
  - 165) Orthopedic Appliance Quote dated May 31, 2011 for a knee brace for the appellant's advocate;
  - 166) Request for Medical Transportation Assistance dated June 16, 2011 and prescription for physio for the appellant's advocate;
  - 167) Letter dated June 27, 2011 from the ministry to the appellant's advocate denying his scooter request;
  - 168) Request for Reconsideration and Notice of Appeal dated July 19, 2011 for the appellant's advocate relating to scooter denial;
  - 169) Diet Supplement Request dated November 3, 2011 for the appellant's advocate;
  - 170) Postal Money Order dated January 25, 2012 from the appellant's advocate to the Minister of Finance;
  - 171) Letter dated January 30, 2012 from the ministry to the appellant's advocate regarding administration;
  - 172) Repayment Agreement dated February 2, 2012 for the appellant's advocate for \$250;
  - 173) Letter dated February 16, 2012 from the ministry to the appellant's advocate denying his request for a monthly nutritional supplement (MNS);

- 
- 174) Colonoscopy Procedure Report dated June 1, 2012 for the appellant's advocate;
  - 175) Notes date stamped July 6, 2012 regarding the appellant need for a knee brace;
  - 176) Request for gluten-free diet dated October 5, 2012 for the appellant's advocate;
  - 177) Notes date stamped January 18, 2013 regarding appointments;
  - 178) Receipts dated July 10 and August 21, 2014 for steam cleaning for appellant's advocate;
  - 179) Handwritten notes by the appellant dated September 12, 2014 requesting medical transportation funds of \$150 and a scooter for the appellant's advocate and medical transportation for the appellant;
  - 180) Single Bed Order form date stamped February 26, 2015 for the appellant's advocate;
  - 181) Statement of Account/ Notice of Assessment for Interest dated April 23, 2015 for the appellant's advocate;
  - 182) Canada post receipts dated May 28, 2015;
  - 183) Receipt dated May 29, 2015 for hotel stay for the appellant's advocate;
  - 184) Request for Reconsideration dated June 15, 2015 and July 22, 2015 for another matter for the appellant's advocate;
  - 185) Pawn shop and other receipts for June and October 2015 for the appellant's advocate;
  - 186) Estimate dated July 2, 2015 for a single bed and bedding for the appellant's advocate and receipt;
  - 187) Prescription dated July 28, 2015 for vitamins and Oncology Clinic Report for the appellant;
  - 188) Orthoses Request and Justification dated August 12, 2015 for the appellant's advocate;
  - 189) Letter dated August 12, 2015 from the ministry to the appellant's advocate regarding his request for a crisis supplement for a bed;
  - 190) Notice of Appeal dated September 6, 2015 relating to another matter from the appellant's advocate;
  - 191) Letter dated September 22, 2015 from the Tribunal to the ministry regarding a hearing of another matter;
  - 192) Application for a MNS dated September 24, 2015 for the appellant;
  - 193) Appeal adjournment request dated September 28, 2015 relating to another matter for the appellant's advocate;
  - 194) Cheque history query dated September 29, 2015 and November 2, 2015 for the appellant;
  - 195) Letter dated September 29, 2015 from the ministry to the appellant's advocate regarding a diet supplement request;
  - 196) Letter dated October 9, 2015 from the ministry to the appellant regarding the MNS;
  - 197) Part of a MERJ form for the appellant dated February 9, 2016;
  - 198) Prescription Form dated February 25, 2016 for a walker for the appellant's advocate;
  - 199) Prescription Form dated February 25, 2016 for a double mattress/bed for the appellant's advocate;
  - 200) Letter dated March 11, 2016 to the appellant regarding a request for access to records under the *Freedom of Information and Protection of Privacy Act*;
  - 201) Ministry Statement of Account dated March 18, 2016 for the appellant for the period from December 23, 1997 through March 18, 2016;
  - 202) Receipts dated March 24 and April 24, 2016 for rent and damage deposits for the appellant and her advocate;
  - 203) Receipts for taxi rides in April and May 2016;
  - 204) Handwritten notes by the appellant dated April 4, 2016;
  - 205) Quotation dated April 4, 2016 for a walker for the appellant's advocate;
  - 206) Handwritten notes by the appellant's advocate dated April 3 & 4, 2016;
  - 207) Letter dated April 7, 2016 from another friend of both the appellant and her advocate;
  - 208) Handwritten notes dated April 20, 2016 regarding the appellant's advocate as a care giver for her;
  - 209) Survey dated April 20, 2016 regarding the status of the appellant and her advocate;
  - 210) Letter dated April 21, 2016 in which a jeweler wrote that the appellant's advocate is authorized as a representative of the appellant since July 17, 2008 in matters relating to loans and loan payments while she has been in his care;
  - 211) Quote from a medical supply provider dated April 22, 2016 for a scooter for the appellant's advocate; and,

212) Written submission dated April 22, 2016 in which the appellant's advocate wrote that:

- He made requests to the ministry for the third time with no response.
- The statement that he called the appellant his "girlfriend" and "fiancée" is incorrect.
- He has requested "care giving" funds of \$500 from the ministry, which the ministry denied.
- Knee braces for the appellant have been requested by the doctor and ignored by the ministry.
- The medical transportation funds were not issued or a response [received] after 6 to 8 months.
- The appellant's HandyDART funds of \$157.50 were taken away. The ministry has ignored her health issues.
- The appellant had to re-pay \$2,300 in April 2003, which she was entitled to earn in 2003 and she should be reimbursed. (AR- 1-4)

213) Telephone bill dated May 4, 2016 in the name of the appellant's advocate;

214) Receipt dated May 11, 2016 in the amount of \$20;

215) Handwritten statement and notes by the appellant's advocate as well as requests dated May 12, 2016;

216) Handwritten notes by the appellant and her advocate dated May 14, 2016 for "all tribunal matters" relating to an alleged dependency relationship between them;

217) Handwritten notes "bills to pay" by the appellant's advocate dated May 16, 2016;

218) Shelter Information dated May 16, 2016 for the appellant's advocate;

219) Request for Reconsideration dated May 17, 2016 by the appellant's advocate and the appellant;

220) Application for Special Transportation Subsidy for the appellant's advocate dated May 18, 2016;

221) Handwritten note by the appellant's advocate to the ministry dated May 18, 2016 requesting \$270 for medical marijuana coverage for pain and return of monthly medical transportation of \$157.50; and,

222) Handwritten note from the appellant to the ministry dated May 18, 2017 (sic) requesting an increase in medical transportation from \$30 to \$157.50 added to her cheque each month.

The ministry relied on its reconsideration decision, summarized at the hearing. At the hearing, the ministry clarified that the appellant receives a special transportation subsidy once a year as the "general health supplement for her other medical transportation costs."

### ***Admissibility of Additional Information***

The ministry did not object to admissibility of the additional documents but noted that the documents relating to the appellant's advocate are not pertinent to this appeal. The panel considered the documents submitted by the appellant in 8 submission packages, spanning the time period of April 1997 to date, and admitted the handwritten notes titled "bills to pay" dated May 16, 2016 as relating to the subject medical transportation request for the appellant and, therefore, being in support of information and records that were before the ministry at reconsideration pursuant to Section 22(4) of the *Employment and Assistance Act* (EAA).

The panel did not admit those documents relating solely to the appellant's advocate, or those documents relating to other requests for supplements, medical transportation, or assistance for the appellant as these do not tend to corroborate or substantiate the information and records that were before the ministry at reconsideration and, therefore, were not in support of the information and records. The panel considered the appellant's Notice of Appeal, handwritten notes and written submissions as well as the email dated August 29, 2002 attaching a page from the BC Benefits Manual, legislation and policy for medical transportation as part of the appellant's argument.



## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost of transportation to an office of a dentist as the ministry found that the request for a health supplement did not meet the legislated requirement of Schedule C, Section 2(1)(f) of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), was a reasonable application of the applicable legislation in the circumstances of the appellant, or was reasonably supported by the evidence.

Under Section 62 of the EAPWDR, the applicant must be a recipient of disability assistance, be a person with disabilities, or be a dependent of a person with disabilities. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that the person's family unit must meet in order to qualify for specified general health supplements.

In this case, the requirements of Schedule C, Section 2(1)(f), which apply to transportation costs, are at issue, as follows:

(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.

Section 29 of the *Interpretation Act* provides as follows:

### **Expressions defined**

29 In an enactment:

"medical practitioner" means a registrant of the College of Physicians and Surgeons of British Columbia entitled under the *Health Professions Act* to practise medicine and to use the title "medical practitioner";

"nurse practitioner" means a person who is authorized under the bylaws of the College of Registered Nurses of British Columbia to practise nursing as a nurse practitioner and to use the title "nurse practitioner";

Section 69 of the EAPWDR provides as follows:

**Health supplement for persons facing direct and imminent life threatening health need**

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) the person's family unit is receiving 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);
  - (ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

***Appellant's position***

The appellant's position is that her request for a health supplement to cover the cost of transportation meets the applicable criteria of Section 2(1)(f) of Schedule C of the EAPWDR and she is, therefore, eligible to receive it. In her Request for Reconsideration, the appellant argued that her dental appointment is most certainly medical and that her request was for a total of \$10. In her written notes, the appellant argued that she requires medical transportation funds in the amount of \$157.50 to \$211 each month to cover the cost of transportation to physiotherapy and other medical appointments, including dental, since she cannot afford this transportation with the funds she has been granted. The appellant argued in her Notice of Appeal that she has "no funds- sorry ministry incorrect on remaining monthly funds."

***Ministry's position***

The ministry's position is that the appellant, designated as a Person With Disabilities (PWD), is eligible to receive health supplements under Section 62 of the EAPWDR; however, the appellant's request for a supplement to cover the cost of transportation for an appointment with her dentist does not meet all of the requirements specified in Schedule C, Section 2(1)(f) of the EAPWDR. The ministry argued that a dentist is not a medical or nurse practitioner as defined in the *Interpretation Act* and the appellant is not seeking transportation to an office in his local area, as required by Section 2(f)(i) of Schedule C. The ministry argued that the appellant is not seeking transportation to the office of the nearest available specialist in a field of medicine or surgery pursuant to Section 2(f)(ii) of Schedule C, a dentist is not a specialist in a field of medicine or surgery, and information has not been provided to show there is a specialist who also works in the dentist office. The ministry argued that there is no information that the dentist is located in a general or rehabilitation hospital and that the appellant would receive a benefit under the *Medicare Protection Act* or the *Hospital Insurance Act* as required by Section 2(f)(iii)(iv)(v) of Schedule C. The ministry argued that there is insufficient information to establish that the appellant has no resources to cover the cost of

the transportation pursuant to Section 2(f)(vi) of Schedule C. The ministry argued that as of November 18, 2015 the appellant received \$976.42 in assistance, including support shelter and other supplements, and as the appellant's shelter costs are listed as \$375, there was no information to show that the appellant cannot use the remaining \$601 to cover the \$10 medical transportation cost, or that she has no other financial resources such as savings. The ministry also argued that the appellant is receiving a general health supplement for her other medical transportation costs and this is a resource for her.

The ministry also found that the appellant is not eligible for a supplement for a life threatening health need as set out in Section 69 of the EAPWDR. The ministry argued that the appellant is eligible for health supplements set out in Schedule C under Section 62 of the EAPWDR and, therefore, Section 69 does not apply as the appellant is otherwise eligible. The ministry also argued that the appellant's request did not meet all the applicable requirements in Section 2(1)(f) of Schedule C, as previously discussed.

*Panel decision*

In her written notes, the appellant argued that she requires medical transportation funds in the amount of \$157.50 to \$211 each month to cover the cost of transportation to physiotherapy and other medical appointments, including dental, since she cannot afford this transportation with the funds she has been granted. The appellant's request dated November 13, 2015 specifically requests travel on a particular date for a dental appointment and the request did not refer to other appointments, such as physiotherapy. In her Request for Reconsideration, the appellant wrote that her request was "for \$10 total" and the panel finds that the ministry reasonably considered whether this request in particular met the requirements of Section 2(1)(f) of Schedule C of the EAPWDR.

Section 2(1)(f)(i) of Schedule C of the EAPWDR stipulates that the ministry may provide a health supplement for the least expensive appropriate mode of transportation to or from an office, in the local area, of a medical practitioner or nurse practitioner. In the Request for Non-Local Medical Transportation Assistance dated November 13, 2015, the appellant requested travel by bus, described as "transit, shuttle," from her city to another city for an appointment with a specialist identified as "dental appointment" in December 2015, with a named referring nurse practitioner. While the appellant argued that her dental appointment is most certainly "medical," the requirement in Section 2(1)(f)(i) is that the requested travel is specifically to or from the office of a medical or nurse practitioner, defined in Section 29 of the *Interpretation Act* as a person who is a registrant of the College of Physicians and Surgeons of British Columbia or is authorized under the bylaws of the College of Registered Nurses of British Columbia to practice nursing as a nurse practitioner, and there is no discretion provided to the ministry in the section to determine otherwise. The appellant did not dispute that the dentist identified in her request is a registrant of the College of Dental Surgeons of BC and is neither a medical nor nurse practitioner. The panel finds that the ministry's conclusion, that the appellant's request did not meet the requirements of Section 2(1)(f)(i) of Schedule C of the EAPWDR as the proposed travel was not to an office of a medical or nurse practitioner in the local area, was reasonable.

Section 2(f)(ii) of Schedule C of the EAPWDR sets out that the ministry may provide a health supplement for the least expensive appropriate mode of transportation to or from 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 or nurse practitioner. The appellant did not provide

information to establish that her dentist is a specialist in a field of medicine or surgery or that there is a specialist who also works in the dentist's office. The Request for Non-Local Medical Transportation Assistance dated November 13, 2015 provided a named referring nurse practitioner, as required by Section 2(f)(ii), but the referral was to a dentist and the nurse practitioner did not assert in the accompanying Consultation Slip that he has any other specialization. The panel finds that the ministry reasonably concluded that the appellant's request did not meet the requirements of Section 2(1)(f)(ii) of Schedule C of the EAPWDR as the requested travel was not to an office of the nearest available specialist in a field of medicine or surgery.

The appellant did not dispute that the dentist is not located in a general or rehabilitation hospital, as required by Section 2(f)(iii)(iv)(v) of Schedule C. The panel finds that the ministry' reasonably determined that the appellant's request did not meet the requirements of Section 2(1)(f)(iii)(iv) and (v) of Schedule C of the EAPWDR as the requested travel was not to the nearest suitable hospital to receive a benefit under the *Medicare Protection Act* or a general hospital service under the *Hospital Insurance Act*.

Section 2(f)(vi) of Schedule C of the EAPWDR stipulates that there must be no resources available to the person's family unit to cover the cost. In her Notice of Appeal, the appellant wrote that she has "no funds- sorry ministry incorrect on remaining monthly funds." Although the appellant provided a page of handwritten notes dated May 16, 2016 itemizing "Bills to Pay" in submission #6, this list included an amount of \$1,000 for rent in May 2016 and "funds to get through June," which is a period of time subsequent to the request made in November 2015, and there was no further supporting documentation provided to verify resources available in November 2015. The ministry's information is that the appellant received \$976.42 in assistance in November 2015 and that her shelter costs were \$375, with \$601 remaining to potentially cover the \$10 medical transportation cost. At the hearing, the ministry stated that the appellant is also in receipt of a yearly special transportation subsidy that is available to cover transportation to appointments. Therefore, the panel finds that the ministry reasonably determined that there was insufficient information to show that the appellant has no resources to cover the cost, pursuant to Section 2(f)(vi) of Schedule C.

The panel finds that since it is not disputed that the appellant is eligible for health supplements under Section 62 of the EAPWDR, Section 69 does not apply as it is intended to provide a health supplement to a person in the family unit who is otherwise not eligible for the health supplement under the EAPWDR. The panel also finds that the ministry reasonably determined that the requirements of Section 69(d) are not met as the request for travel to a dental appointment did not meet the requirements of Section 2(1)(f) of Schedule C of the EAPWDR, as detailed above. Therefore, the panel finds that the ministry's decision, which concluded that all of the criteria in Section 69 of the EAPWDR are not met, was reasonable.

#### *Conclusion*

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and confirms the decision. The appellant is not successful in her appeal.