

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (“ministry”), reconsideration decision dated June 17, 2016 in which the ministry denied the appellant’s request for a health supplement for local medical transportation. The ministry was not satisfied that the appellant’s request met the requirements of Schedule C, Section 2(1)(f) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as the least expensive appropriate mode of transportation to or from hospital appointments as travel is not from the appellant’s place of work, but from her home, which is within walking distance. The ministry was also not satisfied the appellant’s request meets the requirements of Schedule C, Section 2(1)(f)(vi) of the EAPWDR as the commute would have no or very little cost. The appellant did not provide information to demonstrate that she is unable to afford the small cost to drive from her home to the hospital as her request focused on transportation from her work to the hospital.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act section 5

Employment and Assistance for Persons with Disabilities Regulation section 62 and Schedule C section 2(1)(f)

PART E – Summary of Facts

The appellant is a sole recipient with Persons with Disabilities (PWD) designation. The appellant had been receiving a monthly medical transportation supplement until April 2016. Upon review in May 2016, the ministry determined the appellant no longer was eligible for the local medical transportation supplement as the new address of October 2014, was a very short distance to the hospital (1.1 km).

The information before the ministry at the time of reconsideration included the following:

- A letter dated June 3, 2016 from the appellant "To Whom it May Concern" outlining the difficulties the appellant has endured due to her illness and the request for transportation assistance consideration from her place of work rather than her home.
- A letter from the appellant's doctor dated June 2, 2016 which states the appellant's medical condition, the number of required treatments per month and a request to reinstate the medical transportation supplement for transportation from the appellant's work to the hospital.
- A letter from a second doctor dated April 29, 2016 which states the appellant's medical condition the number of treatments per month required and a request for continued medical transportation funding be granted.
- Request for Reconsideration dated June 3, 2016

In the appellant's Request for Reconsideration, she wrote:

- Explaining her medical condition and the importance of attending the hemodialysis appointments.
- She has always travelled from work to her appointments.
- Because of her circumstances she has requested the ministry consider her starting point of travel for her medical appointments be her place of work rather than her home.

In the appellant's Notice of Appeal, she wrote:

- The reconsideration decision does not consider her additional 10-20 medical appointments per month.
- She wants the opportunity to discuss her situation directly with a person over the phone.
- She feels her circumstances are different and require special consideration.
- She notes that the "Decision Under Consideration" in her Reconsideration Decision notes someone else's circumstances, not hers. (This was recognized and tribunal members were notified).

At the hearing, the appellant stated that she:

- Has always played by the rules and feels taking away the travel supplement is unfair.
- Felt all she was required to do was have three appointments a week and she would be entitled to the medical travel supplement.
- Begins her afternoon job at 2:15 and ends after 2:45 but that she often stays later to assist late students and as a result cannot leave work, arrive at home and then proceed to her 4:30 medical appointment.

At the hearing, the appellant's Social Worker added:

- She wondered why the appellant had been denied the travel supplement as there was no issue in 2015.
- The appellant has to travel from work to the hospital due to the schedules of the hospital and the appellant's place of work.
- The appellant cannot walk home from her appointments as it is dark and there is a medical concern for the appellant's safety.

In the reconsideration decision, the ministry wrote:

- According to Google Maps, the appellant's residence is within walking distance of the hospital where she has her appointments.
- It is recognized the appellant travels to her hospital appointments from her place of employment the minister does not consider her work commute to be a medical transportation cost.

At the hearing, the ministry stated:

- The key issue is Schedule c (2)(1) (f) which states " the least expensive appropriate mode of transportation to or from". Noting that the claim from work place to the hospital is not the least expensive.
- Medical travel supplements are reviewed every 12 months and that they are not a long term benefit.
- If in past years (2015), a supplement was incorrectly given this doesn't make the appellant eligible for the medical travel supplement in future years.
- There was no evidence that the appellant could not go from work to home to the hospital.
- The appellant was denied the travel supplement based on her request for coverage from work to the hospital but that she is able to make another request based on her new location and the current circumstances of her situation.

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PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision of June 17, 2016 which denied the appellant's request for a health supplement for local medical transportation to travel from her place of employment to the hospital for dialysis treatments was a reasonable application of the enactment in the circumstances of the appellant. Specifically, the minister was not satisfied that the appellant's request meets the requirements of Schedule C, Section 2(1)(f) of the EAPWDR as the least expensive appropriate mode of transportation to or from her hemodialysis appointments is not her commute from work, but from her home, which is in walking distance of the hospital. The minister was also not satisfied that the appellant's request meets the requirements of Schedule C, Section 2(1)(f)(vi) of the EAPWDR as her commute from home to the hospital would have no cost if she walked, or little cost if she was driving from home to the hospital.

The relevant legislation is as follows:

Employment and Assistance for Persons with Disabilities Act section 5

Disability assistance and supplements

5 Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

Employment and Assistance for Persons with Disabilities Regulation section 62

General health supplements

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 section 2(1)(f)

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

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- (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.

Requirements of Schedule C, Section 2(1)(f)- Least expensive mode of transportation.

The appellant's position is that due to her work schedule and the hospital's appointment times she is unable to travel to home from work but must travel directly from work to the hospital.

The ministry's position is that the least expensive mode of transportation would be from home to hospital and not from work to the hospital directly.

The panel found that the ministry reasonably concluded that the appellant did not meet the requirements of Schedule C, Section 2(1)(f)- the least expensive mode of transportation. As the appellant lives a short distance from the hospital it would seem reasonable that she be able to drive from work, to home then to her appointment at the hospital.

Schedule C, Section 2(1)(f)(vi)EAPWDR- no or little cost.

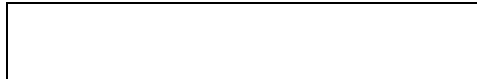
The appellant's position is she cannot walk home from the hospital appointments as it is unsafe due to the darkness and possible medical issues (passing out due to medical treatment).

The ministry's position is the appellant's home is within walking distance therefore if the appellant were to walk to her appointments there would be no cost and if she were to drive the costs would be very little.

The panel found the ministry reasonably concluded that the appellant did not meet the requirements set out Schedule C, Section 2(1)(f)(vi) of the EAPWDR as the appellant did not supply any evidence for costs of travel from home to hospital and did not have any evidence that it was unsafe for her to walk for the hospital to home.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the



ministry's reconsideration decision which determined that the appellant was not eligible for a health supplement for local medical transportation pursuant to Section 5 of the EAPWDA and of Schedule C, Section 2(1)(f)(vi) of the EAPWDR was reasonably supported by the evidence, and therefore confirms the decision. The appellant is not successful in his appeal.