

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated January 11, 2017, which denied the appellant a health supplement for transportation to see her medical doctor because she had not demonstrated that all of the legislative criteria set out in the *Employment and Assistance for Persons with Disabilities Regulation* had been met. In particular, the ministry found that the appellant had not met the legislated requirements of sections 62 and Schedule C, specifically section 2(1)(f) of Schedule C.

The ministry determined that the appellant met the basic eligibility requirements under section 62 as a recipient of disability assistance. The ministry also found that the medical visits for which the appellant sought a supplement

- Were not visits to a local practitioner;
- Were not visits to the nearest available specialist; and
- Did not take place at the nearest suitable general hospital.

As well, the ministry determined that the appellant had not demonstrated that there were no resources available to cover the costs.

PART D – Relevant Legislation

Employment and Assistance For Persons With Disabilities Act (EAPWDA), section 5
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62,
Schedule C subsection 2

PART E – Summary of Facts

The information before the ministry at reconsideration included the following:

- A letter dated November 10, 2016, from the appellant's physician that confirmed she was seen in the office on October 5, and November 10, 2016.
- A Request for Non-Local Medical Transportation Assistance dated November 14, 2016, indicating that she had attended her physician's office on November 10, 2016 due to an injury that required emergency care by her physician. The total distance travelled was 136 km.
- Contact information for the medical clinic attended by the appellant.
- An appointment card for the appellant's October 5 appointment.
- A Request for Non-Local Medical Transportation Assistance dated October 5, 2016, indicating: "New GP – none avail locally".
- The appellant's Request for Reconsideration, dated December 20, 2017, included the following information:
 - In July 2016, she moved to her current community of residence as she needed full-time physiotherapy and the residence she had been living in had been sold.
 - No housing was available in her former community and she was aware that she would lose her GP of 9 years as she was out of catchment for his continued care.
 - From the time she moved she was to be transferred to a specific clinic in her new city of residence, but this did not happen.
 - She searched for 2 months for a GP in the area with help from the College of Physicians and Surgeons and every available resource to obtain a local GP to no avail.
 - A particular physician's office was the first doctor available to take new patients and agree to take the appellant "out of regulated catchments due to emerg. requirement".
 - The appellant is both post and pre-operative for another knee replacement in early 2017.
 - She has a replacement joint in her wrist and ankle along with multiple other chronic medical issues that must be monitored monthly.
 - The local hospital refuses treatment.
 - No doctors in the appellant's area are taking new patients and due to her post and pre-operative medical conditions she cannot be without a GP under any circumstance.
 - She must be seen monthly and the local hospital refused to see her. It is their policy and anyone attending the ER is given a standard form saying so.
 - She is on 12 different prescriptions medically due to injuries and other emergent needs as she has a number of medical conditions, one of which requires another surgery.
 - This is a lifelong need and she will continue to seek a GP in her area.

Notice of Appeal

In the Notice of Appeal, dated January 25, 2017, the appellant provided the following information:

- She has tried all medical clinics in her area with the same outcome, her case is too complex

At the Hearing

Appellant

At the hearing the appellant provided a significant amount of information about the complexities of her particular medical history, as well as her current condition and upcoming surgeries. The appellant

also provided details about the number and classification of medications required to manage her conditions. The appellant indicated that, due to the nature of her conditions and the medications she requires, it is essential that she have a general practitioner (GP) who is willing to see her monthly and on an on-going long term basis. She stated that she can go to a walk-in clinic or medi-centre for minor medical problems, such as a sore throat, but they cannot provide the on-going care or prescriptions she requires.

The appellant outlined the significant efforts she has made to secure a GP since moving to the community in which she now resides. The appellant's evidence was that she had expected her file to be transferred from her old clinic to a particular clinic in her new community, but that when she went for her first visit at that clinic she was not accepted as a patient due to the nature of her conditions and the medications she requires. The appellant indicated that she has gone to all medical clinics in her new community without success and the hospital cannot provide her with the services she requires. The appellant found her current medical doctor (MD) with assistance from the College of Physicians and Surgeons, but his clinic is located some distance from the appellant's new community. Her file was transferred to the MD's clinic right away and she has been making monthly trips to see him, as she requires these monthly visits for monitoring of her medical conditions and medications.

The appellant indicated that she requires someone to drive and assist her in attending her MD appointments and that she must pay someone to take her. She stated that the cost associated with having someone drive her to these appointments creates significant financial stress; she relies on the food banks and doesn't have money for living expenses because high rent and hydro costs consume most of her assistance income.

The appellant stated that she continues to search for a MD in her community but has been unsuccessful thus far and travelling to her current MD is the only option. The appellant stressed that if she had the option of seeing a MD in her community she would do so as the trip is quite long and very painful for her; she requires 12-24 hours to recover each time.

Ministry

The ministry relied on its reconsideration decision at the hearing.

Admissibility of Additional Information

The panel determined the information provided in the Notice of Appeal as well as the additional information provided at the hearing was admissible under s. 22(4) of the EAA as it was in support of, and tended to corroborate, the evidence before the minister at reconsideration.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision that denied the appellant funding for transportation to see a medical practitioner because she had not demonstrated that all of the legislative criteria under section 62 and Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* had been met was reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant. More specifically, the issue is whether the evidence reasonably supported the following determinations or whether they were a reasonable application of the legislation in the appellant's circumstances:

The ministry determined that the appellant had not demonstrated that:

- the medical appointments were with a local medical practitioner as required by Schedule C, subsection 2(1)(f)(i), or
- the medical appointments were with the nearest available specialist in accordance with Schedule C, subsection 2(1)(f)(ii), or
- the medical visits were at the nearest suitable general hospital in accordance with Schedule C, subsection 2(1)(f)(iii) and (iv), and
- there are no resources available to cover the costs as required by Schedule C, subsection 2(1)(f)(vi).

The ministry found that the appellant had met the following requirements:

- the appellant is designated as a Person with Disabilities as out in section 62

The legislation provides:

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.

The regulation provides:

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.

General health supplements

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.

Local medical practitioner or nurse practitioner

Schedule C, subsection 2(1)(f)(i) allows the ministry to provide a health supplement for the least expensive appropriate mode of transportation to or from a local area office of a medical practitioner or nurse practitioner.

Appellant's Position

The appellant's position is that there are no services available to her in her community and she must make monthly trips to see her MD as it is essential for her health; she has no other option as she has accessed every available resource and is unable to find a MD in her community who is willing and able to take her on as a long-term patient. She further argues that, after receiving the reconsideration decision, she contacted the clinic referred to in the reconsideration decision as taking new patients and this clinic is not able to take her on as a patient due to the complexity of her case and her medication needs.

Ministry's Position

The Ministry argued that the GP is 69.8km away from the appellant's community and is not considered local to the appellant. The ministry explained that local is considered to mean the closest municipal area where a person would engage in activities such as shopping and banking. The ministry acknowledged that there may be an extension of what is considered local in circumstances where there are no services available in a person's community. The ministry argued that it had confirmed that a clinic in the appellant's community was taking new patients. The ministry further argued, where there is the appearance that services are available in the person's community, as the ministry confirmed in this case, the onus is on the client (in this case the appellant) to provide information demonstrating that there are no resources available to them specifically.

Panel Decision

The panel finds that while the appellant is having difficulty finding a local medical practitioner she had not, prior to the hearing, provided the ministry with information explaining why the local medical clinics that seemed to be taking new patients could not take her on as a patient. The panel finds that the ministry's conclusion that the appellant's request did not meet the requirements of Schedule C, subsection 2(1)(f)(i) of the EAPWDR was reasonable, as the appellant had not demonstrated that the travel was to or from the office of a medical practitioner or nurse practitioner in the local area.

Specialist

Schedule C, subsection 2(f)(ii) allows the ministry to 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 practitioner or nurse practitioner.

Appellant's Position

The appellant did not argue that the MD is a specialist as required by Schedule C, subsection 2(f)(ii).

Ministry's Position

The ministry argued that the MD is not a specialist as defined by the regulation because the College of Physicians and Surgeons of BC does not recognize him as a specialist; he is recognized as a general practitioner only.

Panel Decision

The panel finds that the ministry reasonably determined that the appellant's request did not meet the requirements of Schedule C, subsection 2(1)(f)(ii) EAPWDR because there is no information to indicate that the MD for whom the travel supplement was requested is a specialist in a field of medicine or surgery.

Nearest suitable general hospital

Schedule C, subsections 2(1)(f)(iii) and (iv) allow the ministry to provide a health supplement for the least expensive appropriate mode of transportation to or from the nearest suitable hospital in accordance with section 1.1 of the Hospital Insurance Act Regulations or section 1 of the *Hospital Insurance Act*.

Appellant's Position

The appellant did not argue that the GP is located in a hospital, a general hospital or a rehabilitation hospital, as required by Schedule C, subsection 2(1)(f)(iii) and (iv).

Ministry's Position

The ministry argued that the routine monthly visits to the MD are not to receive outpatient services and are not appointments at the nearest suitable general hospital as required by the regulations.

Panel Decision

The panel finds that the ministry reasonably determined that the appellant's request did not meet the requirements of Schedule C, subsection 2(1)(f)(iii) and (iv) of the EAPWDR as the requested travel supplement was not to attend the nearest suitable general hospital or rehabilitation hospital.

No resources available

Schedule C, subsections 2(1)(f)(vi) allows the ministry to provide a health supplement for the least expensive appropriate mode of transportation where one of the requirements if subsections 2(1)(f)(i)-(iv) have been met and there are no resources available to the person's family unit to cover the costs.

Appellant's Position

The appellant acknowledges that while she did pay for the October and November visits to the MD, she has no resources available to cover the costs of these monthly visits. The appellant argues that the \$52 monthly transportation allowance is more than consumed by transportation costs associated with medical tests, grocery shopping, physiotherapy, swimming, etc. because her scooter does not fit on transit in her community. She further argues that there isn't much of her monthly assistance left

after paying her rent of \$800 and hydro; she has \$85 per month for groceries and relies on the food bank. The appellant also argues that she has previously indicated to the ministry that there are no funds available to cover the costs of the monthly MD visits she requires.

Ministry's Position

The ministry's position is that the appellant has paid for the trips to the MD herself and has not indicated that there are no funds available to her to cover the cost of a return trip to the MD.

Panel Decision

The panel notes that on the Request for Non-Local Medical Transportation Assistance dated October 5, 2016 the appellant has indicated that she has considered Family/friends and Volunteer Agencies to assist with her medical transportation and has written "none avail". As well, the panel notes that on the Request for Non-Local Medical Transportation Assistance dated November, 14, 2016 the appellant has checked the "No" box in response to the question "Are you able to contribute to the cost of this transportation?" and has indicated that she has considered Family/friends and Volunteer Agencies to assist with her medical transportation. At the hearing, the appellant provided additional information in support of the information provided in these forms regarding her financial situation and the lack of available resources to cover the costs. As such, the panel concludes that the ministry's determination that the appellant has not indicated that she does not have funds available to her to cover the cost of a return trip to the MD is not reasonable.

Conclusion

Having reviewed and considered all 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 medical transportation because she had not met all the legislated criteria under Schedule C, subsection 2(1)(f) of the EAPWDR, was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The panel confirms the reconsideration decision. The appellant is not successful in her appeal.