

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated April 6, 2017 which denied the appellant's request for a medical transportation supplement to see her psychologist because she did not meet the legislative criteria under Schedule C of the Employment and Assistance for Persons with Disabilities Regulations (EAPWDR). In particular, the ministry found that the appellant's :

- Psychologist does not meet the ministry's definition of a specialist because a psychologist is not considered a medical practitioner that is a specialist in a field of medicine or surgery.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Act (EAPWDA), section 5

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Schedule C, Sections 1 and 2(1)(f).

PART E – Summary of Facts

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

1. Request for nonlocal medical transportation assistance, dated February 28, 2017.
2. Hand-written note from the appellant's general practitioner which is signed and dated February 28, 2017. The letter states in part "This lady has an appointment with her Oncologist on March 8.17... Due to her significant health issues, this lady finds travelling on the BC Ferry system to be extremely demanding".
3. Letter from the appellant's psychologist which is signed and dated February 2, 2017 and confirms that the appellant has an appointment with the psychologist on March 7 at 2:30pm.
4. Letter from the appellant's oncologist which is signed and dated February 27, 2017 and confirms that the appellant has an appointment with the oncologist on March 8, 2017 at 2:00pm.
5. Request for Reconsideration (RFR) which is signed and dated March 28, 2017 and includes hand-written notes on the original ministry's denial decision and a 2 page hand-written letter.
 - The notes on the original decision outline that the appellant was misunderstood by the ministry worker, she was billed for various costs, she was misled by the ministry worker which led to her incurring costs for letters from her various medical care-givers, and due to underfunding she contracted an illness and injured knee.
 - The hand-written letter states in part that: 1) there are inaccuracies within the ministry's original decision; 2) the ministry worker misunderstood the appellant; 3) the appellant has been billed for letters that the ministry requested which created a hardship for her; 4) her knee was injured during her last appointment due to underfunding; 5) the appellant's disability is a mental illness for which she is seeking treatment; and 6) the appellant went to her appointment on good faith believing the ministry would cover the associated costs.

Evidence on Appeal

Notice of Appeal (NOA) which is signed and dated April 7, 2017 and reiterated what was stated in the RFR.

Evidence at the Hearing

At the hearing the appellant provided the following information:

- Her disability is a mental illness and she requires treatment for it. She finds that the treatment with her psychologist is beneficial and sees him when she has appointments with her oncologist.
- She described her current living and financial situation.
- Though grateful for the support of the ministry she would like to re-coop the costs associated with the ministry's requirement of letters from her medical care-givers. She is seeking \$70 because she already received a \$20 crisis supplement.
- She would also like to have assurances that moving forward the costs associated with her visits to the psychologist will be covered by the ministry.
- She did not receive funding from her church but instead from a community centre. The ministry got this fact wrong in its reconsideration decision.
- She described the hardships she faces when she must travel for her medical appointments

and how they impact her. Due to the challenges she needs escorts and for costs to be covered, such as ferry, taxis, lodging and bus.

At the hearing the ministry relied on its consideration decision.

PART F – Reasons for Panel Decision

The issue on appeal is whether the ministry's decision, which denied the appellant's request for a medical transportation supplement because her psychologist is not a specialist in a field of medicine or surgery, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The relevant legislation requires the following:

Definitions

1 In this Schedule:

"**specialist**" means a medical practitioner recognized as a specialist in a field of medicine or surgery in accordance with the bylaws made by the board for the College of Physicians and Surgeons of British Columbia under section 19 (1) (k.3) and (k.4) of the *Health Professions Act*.

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.

The Appellant's Position

The appellant argues that in the past the expenses related to her visits to the psychologist were covered and she would like the same this time. Due to her medical condition and the weather conditions at the time of her medical appointments, she was unable to walk even the 2 blocks from the bus stop to the lodge and had to take a taxi. The appellant also argues that due to the negligence of the worker and the worker's request for a letter from the doctor, she is left with \$0.75 in her bank account and a debt of \$20.

The Ministry's Position

The ministry's position is that though she does not have the resources to cover the additional costs incurred with her visit to her psychologist, the appellant does not meet the legislative requirements found in Schedule C sections 1 and 2(1)(f) of the EAPWDR. In particular her psychologist is not a specialist in a field of medicine or surgery and therefore the costs associated with the appellant's visit with her out-of-town psychologist cannot be covered. Furthermore, the appellant's request does not meet any of the remaining eligibility categories for medical transportation.

The Panel Decision

The ministry has based its denial on the legislative criteria found in Schedule C sections 1 and 2(1)(f) of the EAPWDR.

Section 2(f)(ii) of the EAPWDR states 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 practitioner or nurse practitioner. Section 1 of the EAPWDR defines a specialist as a medical practitioner that is recognized as a specialist in a field of medicine or surgery in accordance with the bylaws made by the board for the College of Physicians and Surgeons of British Columbia. The panel has considered the appellant's arguments as stated above and is empathetic to her situation. However the panel notes that the legislation clearly outlines the definition of a specialist and the appellant's psychologist does not fall within that definition. The panel finds that the ministry reasonably determined that the evidence establishes that the appellant is not eligible for medical transportation costs to consult with her psychologist who is not considered a specialist pursuant to sections 1 and 2(f)(ii) of the EAPWDR.

Conclusion

The panel finds that the evidence establishes that the ministry was reasonable in its determination that the criteria set out in Sections 1 and 2(f) of the EAPWDR has not been met by the appellant. As a result the panel finds that the ministry's decision to deny the appellant's request for a health supplement for medical transportation was a reasonable application of the legislation and was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful in her appeal.