

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated July 11, 2017 which denied the appellant's request for a supplement to cover the cost of hotel accommodation for specified dates prior to May 29, 2017. The ministry found that the request for a health supplement did not meet the legislated requirement of Schedule C, Section 2(1)(f)(ii) of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) because:

- The specified dates of hotel accommodation were not required to enable the appellant to attend at the specialist to receive treatment.

PART D – Relevant Legislation

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

PART E – Summary of Facts

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

- 1) Letter dated October 13, 2016 in which a GP wrote that the appellant and his spouse are not able to travel on the day of their medical appointments as they need to rest;
- 2) Ministry Request for Non-Local Medical Transportation Assistance information sheet;
- 3) Request for Non-Local Medical Transportation Assistance dated May 25, 2017 for the appellant to receive skin care center light therapy May 26, 2017 through July 15, 2017 on Monday, Wednesday and Friday, with a departure date of May 26, 2017 and a return date of July 15, 2017;
- 4) Letter dated May 26, 2017 in which a rheumatologist wrote that:
 - The appellant will require light therapy for severe plaque psoriasis three times a week (Monday, Wednesday, Friday) in a large city center for 6 weeks.
 - The appellant will also be seeing a physiotherapist who specializes in arthritis;
 - This treatment is medically essential and is not available in his home community;
 - He will be reassessed in 6 weeks to determine if further treatment is required.
- 5) Letter dated May 27, 2017 in which the appellant's spouse wrote that she suffers from anxiety and panic attacks. She also wrote that if the appellant is forced to stay at a new hotel for the extended medical stay, she will not accompany him as his escort. The stress of being in a different hotel and having to create a new routine will trigger panic attacks and general anxiety and she "won't be of any use" to the appellant;
- 6) Copy of email dated June 12, 2017 to the appellant regarding "super suite" accommodation at the rate of \$135 per night, or \$4,050 for 30 nights;
- 7) Ministry summary of transportation costs for the appellant, indicating dates and costs as follows:
 - from May 29 to June 2, 2017 (Monday to Friday) and costs of \$74.68 for mileage, meals of \$120 and bus fare of \$24, with accommodation and parking to be reimbursed on submission of receipts;
 - June 5 to 9, 2017 (Monday to Friday) and costs of \$74.68 in mileage, meals of \$120 and bus fare of \$24, with accommodation and parking to be reimbursed upon submission of receipts;
 - June 12 to 16, 2017 (Monday to Friday) and costs of \$66.68 in mileage, meals of \$120, bus fare of \$24, with direct bill of accommodation and parking;
 - June 19 to 23, 2017 (Monday to Friday) and costs of \$66.68 in mileage, meals of \$120, bus fare of \$24, with direct bill of accommodation and parking;
 - June 26 to 30, 2017 (Monday to Friday) and costs of \$66.68 in mileage, meals of \$120, bus fare of \$24, with direct bill of accommodation and parking;
 - July 3 to 7, 2017 (Monday to Friday) and costs of \$66.68 in mileage, meals of \$120, bus fare of \$24, with direct bill of accommodation and parking;

8) Receipts for an airport hotel dated:

- May 17 to May 20, 2017 (Wednesday to Saturday) for a cost of \$637.67 in the name of the appellant's spouse;
- May 23 to May 26, 2017 (Tuesday to Friday) for a cost of \$679.47 in the appellant's name;
- May 29 to June 1, 2017 (Monday to Thursday) for a cost of \$802.24 in the name of the appellant's spouse;
- June 1 to June 4, 2017 (Thursday to Sunday) for a cost of \$679.47 in the appellant's name;
- June 4 to June 7, 2017 (Sunday to Wednesday) for a cost of \$679.47 in the appellant's name; and,

9) Request for Reconsideration dated June 27, 2017 and attached page in which the appellant wrote:

- He is appealing the ministry's decision to force him to go back and forth to his home on the weekends.
- His escort, who is his wife, needs to be able to rest in between their trips and is not able to travel on his appointment days, as instructed by their doctor.
- He has been staying "on medical" since February 15, 2017 and the ministry has paid for the weekend stays throughout his stay.

Additional information

In his Notice of Appeal dated July 20, 2017, the appellant expressed his disagreement with the ministry's reconsideration decision and wrote "because my doctor's note was signed on May 26, 2017. Further information to arrive."

At the hearing, the appellant stated that:

- He requested the supplement for May 26 to July 15, 2017.
- The ministry said that they did not get the doctor's letter until May 29, 2017, but it was written by his doctor on May 26, 2017 and emailed by his doctor the same day to him, and forwarded to the ministry. He did not visit the doctor that day in another community because he had seen him previously.
- He has been staying in a hotel since the middle of February 2017 and the weekend stays had been approved by the ministry for the whole time. His doctor prescribed the treatment for 6 weeks, and this was renewed in April, and was required also in May 2017. He gave the ministry the doctor's note for an extension of the treatment, but the request goes to a different worker at the ministry every time.
- There is one worker at the ministry who denies all his requests.
- He lives in a remote area that requires taking 3 ferries to get to the city center to receive his treatments, and this travel takes about 8 hours one way, on a good day.
- He and his wife are not allowed to travel on the day of the medical appointment because they need to rest in between. It is not reasonable to expect that they will travel on Saturday and turn around and travel back on Sunday.
- His doctor wrote a letter, dated October 13, 2016 advising that he and his wife are not able to travel on the day of their medical appointments. His wife also wrote a letter, dated May 27, 2017, that explains her difficulties.
- He believes that the receipts for hotel accommodation May 17 to May 20, 2017 and May 23 to May 26, 2017 have been paid by the ministry, although he does not have the approval documents to show this. He believes the ministry has listed these dates in error.

- As far as he is concerned, all the hotel costs have been paid by the ministry for the requested period, with the exception of May 26, 27, 28, and 29, 2017, Friday through Monday, and June 9, 10, 11, and 12, 2017, Friday through Monday.
- He had treatments on Friday, May 26, 2017 as well as Monday, May 29, 2017 and Wednesday and Friday that week. He did not have treatment on May 30, 2017. His doctor has said that he is only to have treatments every other day and not two days in a row.
- On June 15, 2017 he moved into a furnished suite and the ministry has paid for his accommodation since then. He is currently in the “super suite” and will need to remain there until his psoriasis is sufficiently cleared up to allow him to have knee surgery.
- The receipts for the hotel are in both his and his wife’s names because they were taking advantage of a promotion based on their birth years. They could not have receipts in one name back-to-back and had to alternate between one in his name and one in hers.
- In February 2017, the airport hotel was offering a “hospital rate” that was not as expensive but was not able to offer a reduced rate as the summer approached. He agrees that it was getting too expensive.
- The process for requesting the supplement has been to request approval prior to the treatments, get the ministry’s approval, and then pay the hotel directly and submit the receipts for reimbursement from the ministry. For the disputed dates, he put the hotel charges on his father’s credit card and now those amounts need to be paid back to his father.

The ministry relied on its reconsideration decision as summarized at the hearing. The ministry clarified at the hearing that:

- On May 26, 2017, the appellant’s eligibility had not been established as the ministry required further information. The Request for Non-Local Medical Transportation Assistance form is completed by the appellant and it is not considered by the ministry until it is supported with information from the doctor confirming a medical need.
- The ministry did not have the information to process the appellant’s request until May 29, 2017. The forms usually take 2 to 3 days for the ministry to process.
- There was no confirmation received from the doctor that there was a medical need for the appellant to stay over the weekend.
- Each Request for Non-Local Medical Transportation Assistance is a separate request that must be supported and is considered on its own merits and not with reference to other requests.
- She has no further information regarding the June 9, 10, 11, and 12, 2017, Friday through Monday, dates mentioned by the appellant as they are not specifically covered in the reconsideration decision.
- The ministry’s file notes indicated that there was a verbal conversation that indicated that the appellant had treatment on Tuesday, May 30, 2017 as a special arrangement, and that he also had treatment on Wednesday, May 31, 2017, and on the Friday, June 2, 2017.
- Although hotel accommodation is not strictly a ‘mode of transportation,’ when considered in comparison to the cost of the appellant travelling back and forth for each treatment day, it becomes less expensive for him to stay near the treatment location and to not travel.

Admissibility of Additional Information

The ministry did not raise an objection to the admissibility of the appellant’s oral testimony. The panel considered the information from the appellant as being in support of, and tending to corroborate, his request for the ministry to cover the cost of hotel over the weekends, which was before the ministry at reconsideration. Therefore, the panel admitted this oral testimony in accordance with Section 22(4)(b) of the *Employment and Assistance Act*.

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 hotel accommodation for specified dates as the request did not meet the legislated requirement of Schedule C, Section 2(1)(f)(ii) of the 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 2(1)(f)(ii) 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 the office of the nearest available specialist in a field of medicine, provided that 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.

Parties' Positions

The ministry's position is that while the appellant submitted a Request for Non-Local Medical Transportation Assistance dated May 25, 2017 to receive skin care center light therapy on Monday, Wednesday and Friday for the period May 26, 2017 through July 15, 2017, with a departure date of May 26, 2017 and a return date of July 15, 2017, the appellant's request was not properly supported by the required information from the rheumatologist until May 29, 2017. On May 29, 2017, the ministry received a letter from the rheumatologist dated May 26, 2017. The ministry determined that because the appellant's treatments did not begin until May 30, 2017, any costs incurred during the specified periods prior to May 29, 2017 had not received prior authorization and were not required to enable the appellant to attend appointments to receive the specified treatment from the specialist (i.e.

skin care center light therapy). At the hearing, the ministry emphasized that the Request form completed by an applicant is not considered by the ministry until it is supported with confirming information from the doctor.

At the hearing, the appellant acknowledged that prior authorization is required for the medical transportation supplement prior to incurring the expenses, but he argued that his doctor's letter is dated May 26, 2017, he had treatment on Friday, May 26, 2017 as well as the following week on Monday, Wednesday and Friday and, therefore, he is also entitled to reimbursement for the hotel costs for May 26, 27, 28, and 29, 2017.

While the ministry denied the appellant's request for reimbursement for the hotel receipt for May 17 to May 20, 2017 and the hotel receipt for May 23 to 26, 2017, the appellant stated at the hearing that he does not dispute any of these dates except May 26, 2017 as he had already received reimbursed from the ministry for the other dates. The appellant's position is that he is entitled to be reimbursed for hotel accommodation costs for May 26, 27, and 28, 2017, covering the dates of his treatment as well as the weekend in between treatment days. At the hearing, the appellant also claimed that reimbursement for hotel costs are still outstanding for June 9, 10, 11, and 12, 2017; however, the denial in the ministry reconsideration decision, which is the subject of this appeal, only related to the time period *prior* to May 29, 2017.

Panel Decision

The Request for Non-Local Medical Transportation Assistance form completed by the appellant specified skin care center light therapy for the period May 26, 2017 through July 15, 2017, and the panel finds that the dates that remain in dispute between the parties and for which the appellant claims reimbursement for hotel accommodation are May 26, 27, and 28, 2017. The appellant did not dispute the ministry's assertion that the rheumatologist's letter, which was necessary to process the request, was not received by the ministry until May 29, 2017. In the letter dated May 26, 2017, the rheumatologist wrote that the appellant "will require" light therapy for severe plaque psoriasis three times a week (Monday, Wednesday, Friday) for 6 weeks. The rheumatologist did not specify a start date for the treatments.

The appellant stated that the weekend stays had been approved by the ministry since the middle of February 2017 and that he had treatments on Friday, May 26, 2017 as well as on Monday, May 29, 2017 and also on Wednesday and Friday that week. He also stated that he did not have treatment on May 30, 2017 as his doctor has said that he is only to have treatments every other day and not two days in a row. The appellant did not provide information on the appeal from the skin care center or his rheumatologist to confirm the dates that he received light therapy treatment, and the panel notes that the onus remains on the appellant to establish eligibility for the supplement. The ministry stated at the hearing that the ministry's file notes indicate that the appellant received light therapy treatment on Tuesday, May 30, 2017 as a special arrangement, and that he also had treatment on Wednesday, May 31, 2017, and on the Friday, June 2, 2017. In the absence of documentation provided from the skin care center to confirm the dates that the appellant actually received the light therapy treatment in this time period, the panel assessed the credibility of the oral testimony based on the consistency with the available documentary evidence.

The ministry summary of transportation costs for the appellant indicates dates and costs for mileage, meals and bus fare commencing on May 29, 2017 and dates following, with accommodation and parking "to be reimbursed upon submission of receipt." There are hotel receipts covering the period May 23 to May 26, 2017 (Tuesday to Friday) and May 29 to June 1, 2017 (Monday to Thursday), but there is no hotel receipt provided for the dates of May 27 and 28, 2017 (Saturday and Sunday) to

verify any hotel accommodation costs incurred by the appellant over the weekend. The rheumatologist's letter does not confirm that the appellant received treatment on May 26th. Additionally, the appellant's request indicates a departure date of May 26th and the appellant's statements that he does not receive treatment on the same day he travels are confirmed in the letter dated October 13, 2016, in which a GP wrote that the appellant and his spouse are not able to travel on the day of their medical appointments as they need to rest.

The panel finds that it is more likely than not that the appellant received his light therapy treatment on Tuesday, May 30, 2017, and that reimbursement by the ministry for hotel accommodation cost appropriately commenced the day before the appellant's treatment day, or on May 29, 2017. The panel also finds that the ministry reasonably determined that the appellant's request was not supported by the required information from the rheumatologist until May 29, 2017 and, therefore, the costs of hotel accommodation for the dates of May 26, 27, and 28, 2017 did not receive prior authorization.

Conclusion

The panel finds that the ministry's decision, which denied the appellant's request for a supplement to cover the cost of hotel accommodation for specified dates prior to May 29, 2017, as the request did not meet the legislated requirement of Schedule C, Section 2(1)(f)(ii) of the EAPWDR, was reasonably supported by the evidence, and the panel confirms the ministry's decision. The appellant's appeal is not successful.