

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated December 12, 2017, which denied the appellant's request for a supplement to cover the cost of medical transportation under section 2(1)(f) of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). The ministry was satisfied that the physician is a specialist in neurology and his doctor referred the appellant. However, the ministry was not satisfied that the appellant did not have the resources available to cover the cost of the transportation as required by section 2(1)(f)(vi).

PART D – RELEVANT LEGISLATION

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

EAPWDR, Schedule C, section 2

PART E – SUMMARY OF FACTS

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

- On October 24, 2017, the appellant submitted a Request for Non-Local Medical Transportation Assistance, indicating a need for assistance with the costs of travel, accommodation and/or food for his appointment with a specialist that had taken place on May 9 and May 29, 2017
- On November 8, 2017 the ministry reviewed the appellant's request and determined that the appellant was not eligible for funding for non-local medical transportation for the two May 2017 appointments
- Request for Reconsideration form dated November 28, 2017 with attached submission from the appellant (RFR)
- Physician Directory
- Google Maps printout of the distance and directions from the appellant's residence to the specialist's office

Additional information provided

In his Notice of Appeal dated December 18, 2017 the appellant states that the ministry's statement that he had the resources to pay for his medical appointments is not correct.

Prior to the hearing the appellant submitted a submission dated January 11, 2018 (the "Submission") indicating that as stated in the RFR, he had to borrow funds from his grocery/food money in order to attend his non-local medical appointment. In the Submission, the appellant states that more often than not, the ministry does not have a cheque ready before the appointment takes place when he submits his request weeks before the appointment. As a result, he has to borrow money allocated for groceries in order to attend his medical appointments. The appellant states that he lives on a fixed income that is below the poverty line, he has no "stock" or "supply" of money for additional living costs. He states that if he were to borrow the money from his shelter or utilities he would risk losing his housing or disconnections. The appellant states that the ministry assumes that because he paid for the fuel from his support assistance that he had extra money to cover the cost but that it is not reasonable for the ministry to expect a person to go without essentials like food and consider that an available resource.

Prior to the hearing, the ministry provided an email dated January 18, 2018 stating that the ministry's submission will be the reconsideration decision.

Admissibility of New Information

The panel has admitted the information in the appellant's Submission regarding his evidence as to the process and time it takes to obtain cheques from the ministry for his medical appointments as it is evidence that is in support of information and records that were before the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*.

The panel has admitted in the information in the Notice of Appeal and the remaining information in the Submission as argument.

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant funding for non-local medical transportation on the basis that he did not meet the criteria of section 2(f)(vi) of Schedule C of the EAPWDR was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable when concluding that the appellant had the resources available to cover the cost of his non-local medical transportation?

Relevant Legislation

EAPWDA

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.

EAPWDR Schedule C

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.

Panel Decision

The ministry's position is that the appellant had the resources to attend his non-local medical appointments as he used his own funds to cover the cost of the travel in May and did not require reimbursement until September, which suggests that at the time of travel, he had the resources available to him. The ministry acknowledges that the appellant reports that he used his food money; however, at the time of his travel he paid for the trip from his support assistance and therefore had the resources available. The ministry's position is that the appellant does not meet the criteria outlined in EAPWDR, Schedule C, section 2(f)(vi) as he had the resources available to cover the costs.

The appellant argues that he had to cover the cost of the medical transportation from his grocery/food money but that it is unreasonable for the ministry to find that this means that he had the resources for the appointment. The appellant's position is that when he submits a request weeks before the appointment the ministry typically does not have a cheque ready in time so he has no other choice but to borrow money allocated for groceries in order to attend his medical appointments.

In the Submission, the appellant provided the definition of "resource" as a "stock or supply of money, materials, staff, and other assets that can be drawn on by a person or organization in order to function effectively" with synonyms being "assets, funds, wealth, money, capital". He also provided the definition of "borrow" as "take and use (something that belongs to someone else" with the intention of returning it".

The appellant states that he needs that money for groceries, not fuel and that it is not reasonable for the ministry to expect a person to go without essentials like food and to consider the money set aside for food to be an available resource.

The panel finds that the ministry reasonably determined that the appellant did not meet the criteria of section 2(1)(f)(vi) of Schedule C of the EAPWDR as they found that he had the available resources to cover the cost of his medical transportation. While the panel appreciates that it may have been difficult for the appellant to pay for the cost of his medical transportation from funds he typically would use for groceries, the appellant never submitted his request for reimbursement for the cost of the medical transportation until October 24, 2017, approximately 5 months after his second medical appointment that took place on May 29, 2017.

In particular, the panel notes that in the Submission, the appellant indicates that he has requested a supplement to cover the cost of medical transportation in the past so he knows that is an available option to him but in this case, he did not make the request prior to his appointments until October 24, 2017.

As the appellant did not make his request for a supplement to cover the cost of his medical transportation prior to the medical appointments and as he waited an additional 5 months to make the request, the panel finds that the ministry reasonably determined that at the time of travel the appellant had the resources available to him.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for non-local medical transportation was a reasonable application of the applicable enactment, and therefore confirms the decision. The appellant is not successful on appeal.