

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated March 14, 2018, which denied the appellant's request for a medical travel supplement under section 2(1)(f) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation to cover costs of travel to visit the office of a neuropsychologist in another city. The ministry determined that while the appellant's request is for the least expensive mode of transportation and the appellant has no resources available to pay the cost of the travel, the appellant's request did not meet the remaining legislative criteria under Schedule C section 2(1)(f); specifically, his appointment is not to visit:

- in his local area, a medical practitioner or nurse practitioner as set out in section 2(1)(f)(i);
- outside his local area, the nearest available specialist in a field of medicine or surgery as set out in section 2(1)(f)(ii); or
- the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the *Hospital Insurance Act* as set out in section 2(1)(f)(iv), 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 as set out in section 1(1)(f)(v).

PART D – RELEVANT LEGISLATION

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 reconsideration included the following information:

The appellant is a medical services only (MSO) client with previous Persons with Disabilities designation.

A form provided by the other city's general hospital states that the appellant has been referred by his neurologist to see a psychologist on February 19, 2018 in their Outpatient Rehab Department for a 4-5 hour appointment.

An excerpt of the College of Physicians and Surgeons of BC's website displays the question "My doctor is a podiatrist, chiropractor, optometrist or psychologist. Why can't I find him/her in the online physician directory?" and the answer to this question: "These regulated health care professionals may have the title "doctor" but they are not registrants of this College. The College's online physician directory only lists the medical doctors with a valid licence to practice medicine in the province of British Columbia. Listings for other regulated health-care professionals can be found on their respective websites."

In a letter dated February 28, 2018, the appellant's advocate writes that the extensive testing required is not available in any other location in this region.

In his Notice of Appeal dated March 22, 2018, the appellant states that his neurologist requested an assessment by a regional neuropsychologist to assist with clarification of the deterioration of his medical condition. The appellant's April 13, 2018 statement "Medical Practitioner determined an acute need" has been included in the appellant's argument (part F of the decision).

In his letter dated March 6, 2018 [stamped "Received" on March 28, 2018], the appellant's neurologist writes that the appellant is being investigated as to the cause of his medical condition. He writes: "Determining the cause is important in order to provide proper treatments and support to him and his family. As part of this investigation I had requested a neuropsychological consultation. This was only available in [the other city] and the patient had to travel [there]... A neuropsychological assessment ... is the test that will best help make a diagnosis."

The appellant filled out an Authorization for Parliamentarians form dated March 22, 2018, wherein he authorized the Canada Revenue Agency to release confidential information to a member of Parliament. He provided his address, phone number and Social Insurance Number.

Admissibility of new evidence

The panel admitted the appellant's Notice of Appeal, his neurologist's letter and his Authorization for Parliamentarians pursuant section 22(4) of the *Employment and Assistance Act* as this information corroborates information that was before the ministry at reconsideration; it confirms the appellant's identity and adds substantiating detail to the appellant's medical condition and history.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request for a medical travel supplement under section 2(1)(f) of Schedule C of the EAPWDR to cover costs of travel to visit the office of a neuropsychologist in another city. More specifically, the issue is whether the ministry's determination that his appointment is not to visit:

- in his local area, a medical practitioner or nurse practitioner as set out in section 2(1)(f)(i);
- outside his local area, the nearest available specialist in a field of medicine or surgery as set out in section 2(1)(f)(ii); and
- the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the *Hospital Insurance Act* as set out in section 2(1)(f)(iv), 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* as set out in section 1(1)(f)(v)

is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Relevant Legislation:

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.

In order to be eligible for a travel supplement under Schedule C, section 2(1)(f) of the EAPWDR, an individual must demonstrate that they meet three criteria:

1. the transportation must be the least expensive mode of transportation;
2. the visit must be for one of the types of medical appointments contemplated by the legislation; and
3. there must be no resources available to the person's family unit to meet the cost.

In this appeal, the ministry has accepted that the appellant meets the first and third criterion. Therefore, the only criterion at issue before this panel is the second criterion, relating to qualifying types of medical visits.

Appellant's Position

The appellant argues that he should be eligible to receive a supplement for medical travel because there was an acute medical need and his neurologist requested extensive testing, which is not available locally. According to the neurologist, it is important to determine the cause of the appellant's medical condition in order to provide proper treatments and support to him and his family. This neuropsychological assessment is the test that will best help make a diagnosis.

Ministry's Position

The ministry determined that the appellant's travel to another city is not considered within his local area nor is it with a medical practitioner or nurse practitioner (Schedule C section 2(1)(f)(i)). A psychologist is not considered a "specialist" as defined in Schedule C section 2 of the EAPWDR. "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 of the College of Physicians and Surgeons of British Columbia. In reviewing the College of Physicians and Surgeons of BC's website, psychologists are not registrants of their college.

The ministry determined further that the appellant is not eligible as per Schedule C, Section 2(1)(f)(iv) or (v) because, although the location of the appointment is indicated as a general hospital, the office of the neuropsychologist is simply in an adjoining wing of the hospital ('Outpatient Rehab Department') and the appellant is not receiving a hospital service.

Panel Decision

As the appellant is seeking a travel supplement to visit another city several hours away to visit a neuropsychologist, the panel finds that the ministry reasonably concluded that the appellant is not visiting a medical practitioner or nurse practitioner in his local areas contemplated by Schedule C, section 2(1)(f)(i).

While the appellant argues that there was an acute medical need and the required testing by a psychologist was essential and only available in another city, the panel finds that a psychologist does not qualify as a "specialist" as defined in section 1 of Schedule C; therefore the panel finds that the ministry reasonably denied a supplement for transportation in accordance with section 1 and 2(1)(f)(ii) of the EAPWDR.

The panel further finds that the ministry reasonably determined that the appellant is not eligible as per Schedule C, Section 2(1)(f)(iv) or (v) because there is insufficient evidence to demonstrate that the Outpatient Rehab Department is the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the *Hospital and Insurance Act*, i.e. "an establishment in which outpatient services are available that has been designated a diagnostic and treatment centre by the Lieutenant Governor in Council for providing outpatient benefits to beneficiaries in accordance with this Act and the regulations".

As it has not been established that the Outpatient Rehab Department qualifies as "hospital" as defined in the *Hospital Insurance Act*, the ministry reasonably concluded that the service the appellant receives is not a "hospital" service.

The panel notes that general hospital services, a term which is incorporated by reference in the EAPWDR, are set out in section 5(1) of the *Hospital Insurance Act* as follows:

5 (1) Except as provided in subsection (2), the general hospital services provided under this Act are the following:

- (a) for beneficiaries requiring treatment for acute illness or injury, the public ward accommodation, necessary operating and case room facilities, diagnostic or therapeutic X-ray procedures, anesthetics, prescriptions, drugs, dressings, cast materials and other services prescribed by regulation;
- (b) for beneficiaries requiring active treatment for chronic illness or disability, the public ward accommodation, physiotherapy and occupational therapy, minor operating room and diagnostic X-ray services, prescriptions, drugs, dressings, cast materials and other services prescribed by regulation;
- (c) for beneficiaries requiring treatment or diagnostic services as outpatients, the outpatient treatment or diagnostic services prescribed by regulation.

This section does not contemplate a neuropsychological assessment as a general hospital service.

Based on the foregoing the panel finds that the ministry's decision denying the appellant's request for medical transportation assistance to visit the office of a neuropsychologist in another city was a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on appeal.