

**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 May 28, 2018, which determined that the appellant was not eligible for a medical transportation supplement because the transportation was not required for one of the reasons described in section 2(1)(f)(i)-(iv) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (“the Regulation”).

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (“the Regulation”), Schedule C, sections 1 and 2(1)(f)

## **PART E – SUMMARY OF FACTS**

### *Information before the ministry at reconsideration*

The appellant is designated as a Person with Disabilities (PWD) and therefore may receive health supplements set out in Section 2(1)(f) of Schedule C if the requirements therein are met. The appellant lives in community B and requested medical transportation supplement to attend the office of two physicians in community C.

In support of her request, the appellant submitted a letter dated April 23, 2018 from one of the physicians. The physician confirms travel dates in February and May of 2018 and states that “substantially equivalent medical services are not available near the patients (sic) home.”

Following denial of her request, the appellant submitted her request for reconsideration in which she writes that there is no doctor where she lives and that she has had her doctor for many years and he knows her medical history. She needs her medication filled every 3 months for a couple of different illnesses. The appellant also submitted documents respecting the cost of her transportation and a second note from the same physician dated May 11, 2018, stating that the appellant is “required medically to attend office visits every 3 mths.”

In its reconsideration decision, the ministry stated that community C is 110.5 km from community B. Additionally, the ministry stated that the College of Physicians and Surgeons of BC outlines that there are medical practitioners that offer general family practice and are accepting new patients in multiple regions near community B and identifies physicians in two communities that are approximately 35 km from community B.

### *Information provided on appeal*

In her Notice of Appeal (NOA) dated June 12, 2018 the appellant wrote that she really needs to see her doctor as he has been her doctor for a number of years and knows her history of illnesses and how to treat her. She also described seeing another doctor in one of the closer communities identified by the ministry and noted that this doctor wanted to “change all of my pills without seeing my file + he wouldn’t refill two of my pills” which she had been on for a few years.

The appellant did not provide any further submissions on appeal and the ministry indicated that its submission is the reconsideration summary.

The panel admitted the additional information in the appellant’s NOA under section 22(4) of the Employment and Assistance Act on the basis that it substantiated information available at reconsideration and was therefore in support of the information before the ministry at reconsideration.

## PART F – REASONS FOR PANEL DECISION

### Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant's request for a medical transportation supplement was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable when determining that the circumstances of the medical transportation are none of those described in section 2(1)(f)(i)-(iv) of the Regulation?

### Relevant Sections of Schedule C of the Regulation

#### 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.

### **Panel Decision**

Section 2(1)(f)(i)-(iv) of Schedule C of the Regulation allows for the provision of a supplement for medical transportation if the transportation is the least expensive appropriate mode of transportation and is for one of the four reasons described therein. The ministry has denied the appellant's request on the basis that the requested transportation is not for any of the four described reasons.

The first reason for travelling for which a supplement may be provided is for the least expensive appropriate mode of transportation to or from "an office, in the local area, of a medical practitioner or nurse practitioner."

The ministry notes that while the appellant may prefer to attend her doctor of many years who is located in community C, that doctor is located 110.5 km away from community B where the appellant resides. As such, the ministry does not consider the transportation to be "in the local area." The ministry also notes that there are two communities that are much closer to the appellant with general practitioners who are accepting new patients.

The appellant's position is that she needs to attend the same doctor she has been seeing for years as he is familiar with her illnesses and knows how to treat her. The appellant acknowledges having attended a doctor in one of the closer communities but was not satisfied with the care she received.

The appellant does not dispute that her appointments are to attend the offices of general practitioners, as opposed to specialists in a field of medicine or surgery. Additionally, the appellant does not dispute the ministry's assessment of the distances between the various communities or that general practitioners are available in the closer communities. In the absence of evidence or argument to the contrary, the panel finds as fact that the distance between community B where the appellant resides and community C to which transportation is requested is over 110 km and that the services of general practitioners are available in two communities that are much closer to the appellant's residence. Based on these findings and on a plain reading of the phrase "in the local area", the panel concludes that the ministry is reasonable in determining that the appellant's request is not for transportation "in the local area" and therefore she is not eligible for a supplement for transportation under section 2(1)(f)(i) of Schedule C of the Regulation.

The remaining purposes for which a supplement may be provided are for transportation to the nearest available specialist in a field of medicine or surgery or to attend the nearest suitable "general hospital", "rehabilitation hospital" or "hospital" as defined in the Hospital Insurance Act and/or Regulations. As the appellant is not attending the office of a specialist or a hospital, the panel concludes that the ministry has reasonably determined that she is not eligible for a supplement for transportation under section 2(1)(f)(ii)-(iv) of Schedule C of the Regulation.

### **Conclusion**

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a supplement to cover the costs of her medical transportation because she was not travelling for any of the reasons set out in section 2(1)(f)(i)-(iv) of Schedule C of the Regulation, was a reasonable application of the applicable enactment and therefore confirms the decision. The appellant is not successful on appeal.

**PART G – ORDER**

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount?  Yes  No

**LEGISLATIVE AUTHORITY FOR THE DECISION:***Employment and Assistance Act*Section 24(1)(a)  or Section 24(1)(b) 

and

Section 24(2)(a)  or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/07/19

PRINT NAME

Chris McEwan

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/19

PRINT NAME

Wayne Reeves

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/19