

PART C – DECISION UNDER APPEAL

The decision under appeal is the ministry's reconsideration decision dated June 8, 2018. In that decision the ministry decided that the appellant did not meet the eligibility requirements set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Schedule C, subsection 2(c)(i), (ii) and (iii) to receive the benefit of a naturopath.

EAPWDR section 62 states the minister may provide a general health supplement for a family unit in receipt of disability assistance. Schedule C states that health supplement can be the service of naturopathy provided by a naturopath if a medical practitioner or nurse practitioner has confirmed an acute need, if the visits available under the Medical and Health Care Services Regulation for that calendar year have been provided, and if there are no resources available to the family unit to cover the cost.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62 and Schedule C section 2.

PART E – SUMMARY OF FACTS

The information before the ministry at reconsideration included the following:

- The Request for Reconsideration Section 3, dated May 16, 2018, in which the appellant wrote:
 - A naturopath intended to treat the appellant for “Persistent Lyme Disease”;
 - “I again request that you exempt me for treatment, as I have not been ‘acute’ since 1971”
- A statement from a Naturopath, dated March 14, 2018, that stated:
 - That testing should be done “as soon as possible” to “rule out a chronic infection as cause of [REDACTED] current health issues” at a cost of 425 Euros and \$275;
 - An estimated cost of care of “\$600-900 per month with an additional \$600 every 6 months” and
 - “Our goal of treatment is stabilization of [the appellant’s] health and a gradual improvement...”

Information provided on appeal:

Notice of Appeal

In the Notice of Appeal dated June 22, 2018, the appellant wrote under the heading Reasons for Appeal “Due to physical + mental debilitation of ‘persistent lyme disease’ I’m asking for ‘exemption’ to your ‘acute interpretation’ policy so as to secure Naturopathic Lyme Treatment...”

The Panel determined that this was argument and was not new evidence.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry's determination that the appellant did not meet the eligibility requirements set out in EAPWDR Schedule C, subsection 2(1)(c)(i) to receive the benefit of a naturopath, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Applicable Legislation

EAPWDR

General health supplements

62 The minister may provide any health supplement set out in section 2 [general health supplements] or 3 [medical equipment and devices] of Schedule C to or for

(a) a family unit in receipt of disability assistance,

(b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or

Schedule C

General Health Supplements

2(c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,

(i) for which a medical practitioner or nurse practitioner has confirmed an acute need,

(ii) if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and

(iii) for which there are no resources available to the family unit to cover the cost:

Item	Service	Provided by	Registered with
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the <i>Health Professions Act</i>
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i>
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <i>Health Professions Act</i>
4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the <i>Health Professions Act</i>
5	non-surgical podiatry	podiatrist	College of Podiatric Surgeons of British Columbia under the <i>Health Professions Act</i>
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the <i>Health Professions Act</i>

Appellant's Submissions

The appellant's submission was that he was aware that he did not meet the legislative criteria to receive the services of a naturopath because neither a medical practitioner nor a nurse practitioner had confirmed an acute need for those services. However, he requested the Panel exercise its power of

“Discernment” to provide an exemption and/or an exception from the statutory requirements.

Ministry Submissions

The ministry stated that it reaffirmed the reasoning articulated in the Reconsideration Decision. The ministry also highlighted that the appellant did not meet the statutory requirements because his condition was chronic and not acute and that no medical practitioner or nurse practitioner confirmed there was an acute need. The ministry highlighted that although a naturopath can provide a service, a naturopath is not a medical practitioner or nurse practitioner as defined in the legislation.

The Panels’ Decision

The Employment and Assistance Act, section 24 provides legislative authority for the Panel to determine whether the decision being appealed is reasonably supported by the evidence and if it is a reasonable application of the legislation in the circumstances of the appellant. The Panel has no legislative authority to exercise any power of discernment or discretion to exempt or except an appellant from the legislative requirements.

EAPWDR Schedule C section 2(c)(i) requires a medical practitioner or nurse practitioner to confirm an acute need for the service of a naturopath as a prerequisite for the ministry providing a health supplement. The Panel finds that no medical practitioner or nurse practitioner has identified that acute need.

Conclusion

The Panel finds that the ministry’s determination that the appellant did not meet the eligibility requirements set out in EAPWDR Schedule C, subsection 2(1)(c)(i) to receive the benefit of a naturopath, is reasonably supported by the evidence and a reasonable application of the enactment in the circumstances of the person appealing the decision. The Panel confirms the ministry’s reconsideration 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

Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/07/17

PRINT NAME

Carl Gorham

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/17

PRINT NAME

Wesley Nelson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/17