



PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision dated May 23, 2018, made by the Ministry of Social Development and Poverty Reduction (the ministry), which determined that the appellant was not eligible to receive a health supplement for transportation to attend an appointment with his podiatrist because: (i) his podiatrist is not a “specialist” as defined in section 1 of Schedule C to the Employment and Assistance for Persons with Disabilities Regulation EAPWDR, and (2) his request does not meet the requirements set out in section 2(1)(f)(i), (ii), (iii) and (iv) of Schedule C of the EAPWDR that the specialist be the nearest available specialist.

PART D – RELEVANT LEGISLATION

The relevant legislation is sections 62, and sections 1 and 2 of Schedule C of the EAPWDR.

PART E – SUMMARY OF FACTS

The appellant is in receipt of assistance as a person with disabilities. On April 11, 2018, he requested medical transportation assistance to attend an appointment with his podiatrist on April 12. The ministry denied his request.

A ministry representative did not attend the hearing. The panel being satisfied that the ministry received sufficient notice of the hearing proceeded with the hearing without the ministry representative in accordance with section 86(b) of the *Employment and Assistance Regulation*.

The appellant submitted a letter from his podiatrist at appeal which states:

“For purposes of transportation via the ministry, [the appellant] will need to see me periodically for foot care problems. He has transportation funding limitations and I am a member of the BC College of Podiatric Surgeons.”

The panel reviewed this letter for admissibility and determined it admissible as it does not introduce any new information but is in support of information and records that were before the ministry at the time of the reconsideration decision.

ATTACH EXTRA PAGES IF NECESSARY

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated May 23, 2018, which determined that the appellant was not eligible to receive a health supplement for transportation to attend an appointment with his podiatrist because his podiatrist is not a "specialist" and is not the "nearest available specialist".

The relevant legislation is sections 62, and sections 1 and 2 of Schedule C of the 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
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

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.

At the hearing the appellant stated that he was surprised at the denial because the ministry has provided transportation funding for him to visit this podiatrist previously. He stated that his podiatrist is a "specialist" as required by the legislation and provided a letter from his podiatrist stating that he is a member of the B.C. College of Podiatric Surgeons. He was referred to this podiatrist by his physician after undergoing surgery which had complications and required a continuity of care, such that this podiatrist was the closest appropriate podiatrist.

In its reconsideration decision, the ministry states that it is satisfied that the appellant's request meets the

requirements of being the least expensive mode of transportation and that he does not have any resources to pay for the transportation.

A "specialist", as defined in the EAPWDR, must be a "medical practitioner" A "medical practitioner", as defined in section 29 of the Interpretation Act, means a "registrant of the College of Physicians and Surgeons of British Columbia". The appellant's podiatrist is a registrant of the College of Podiatric Surgeons of British Columbia, not the College of Physicians and Surgeons of British Columbia. He is therefore not a "medical practitioner", as that term is defined in the Interpretation Act, and so is not a "specialist", as that term is defined in the EAPWDR.

The ministry states that the appellant's request does not meet the requirements of section 2(1)(f)(i), (ii), (iii) or (iv). The panel considers that only one of these subsections is relevant to the appellant's circumstances: 2(1)(f)(ii).

There is no question that the appellant was appropriately referred to his podiatrist. The ministry states that the appellant's podiatrist is not the closest available podiatrist to the appellant, pointing out that there are a number of podiatrists listed in two communities closer to the appellant's residence. The appellant states that he did not consider these podiatrists as he was referred to his podiatrist by his physician for continuity of care reasons. The legislation is clear that in order to qualify for the medical transportation benefit, the applicant must be travelling to the "nearest available specialist". That was not the case in this instance.

Finally, the ministry states that, contrary to the appellant's assertion, it has no record of providing medical transportation funding to the appellant for travel to his podiatrist's offices. The panel considers that whether or not the ministry has done so in the past is not relevant to the matter before the panel at this time.

Accordingly, the panel finds that the Ministry's decision to deny the appellant a health supplement for transportation to his podiatrist's office was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME Marcus Hadley	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/07/03

PRINT NAME Jennifer Armstrong	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/07/03
PRINT NAME Sanjay Gulati	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/07/03