

### **PART C – DECISION UNDER APPEAL**

Under appeal is that part of the reconsideration decision by the Ministry of Social Development and Poverty Reduction (“the ministry”) dated 13 November 2018 that denied the appellant’s request for non-local medical transportation assistance to cover the costs of travel from his hometown (Town A) to an appointment with a physician in City B. The ministry determined that the appellant was not eligible for this assistance because the following requirements set out in section 2(f) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation were not met:

- The travel was to the office of a general practitioner (GP), not to office of the nearest available specialist upon referral by a local GP or nurse practitioner, as required under paragraph (ii) of section 2(f), or for travel to the nearest suitable hospital as described in paragraphs (iii) or (iv);
- The provision in paragraph (vi) that there were no resources available to the appellant to cover the cost of the travel had not been demonstrated.

The reconsideration decision otherwise found in favour of the appellant: the ministry approved reimbursement of \$21 for bus fare from City C, where the appellant had been unexpectedly taken to hospital, to Town D where the appellant had left his truck; and assistance, as a crisis supplement, to cover the cost of his return trip home from Town D to Town A.

### **PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 57 and Schedule C, sections 1 and 2(f).

## **PART E – SUMMARY OF FACTS**

The evidence before the ministry at reconsideration relating to the matter under appeal includes the following:

- The appellant is a recipient of disability assistance.
- On 23 October 2018 the appellant attended the ministry office in City B. He indicated that he had travelled from his hometown [Town A] to attend medical appointments, that he had a vehicle and was requesting gas money for the travel to the appointments, although he did not have any gas receipts.
- On 25 October, the appellant called the ministry, advising that his physician would be submitting a medical note, that he was then in Town D and would be returning to Town A and needed assistance for the return trip.
- A Request for Non-Local Medical Transportation Assistance signed by the appellant and received by the ministry on 29 October 2018. Under Medical Appointment Information, the date of the appointment is 25 October 2018 (ongoing), with the name of a physician (“Dr. X”) shown against Referring Medical Practitioner, with an address and phone number in City B. Under Travel Details, the departure date is shown as 24 September 2018, with a return date of 29 October 2018; and the appellant indicates that he will require overnight accommodation in Town D.
- The appellant’s Request for Reconsideration dated 05 November 2018. Under Reasons, the appellant writes that there was no form to fill out the specialist request in his hometown (Town A) or a doctor’s office there where he could go for his colon or mental stress.

### **Notice of Appeal**

The appellant’s Notice of Appeal is dated 19 November 2018. Under Reasons for Appeal, he writes that his reasons are the same as for his Request for Reconsideration. He attaches the same package of information as he had submitted at reconsideration.

In a separate email to the Tribunal, dated 17 November 2018, the appellant writes that he has an older model V-8 truck. It costs \$120 to fill the tank, and the trip can take 5 tanks. He states that “the police stole my receipts for the [trip from Town A to City B] when they stole my marijuana...” He requests the same amount of money for the trip from Town A to City B he made on September 25.

### **The hearing**

At the hearing, the appellant explained that he left his hometown to drive to City B on 25 September 2018 because he had a court appearance on 28 September 2018, intending to see his doctor soon after because he was having colon problems. Because of legal complications following his court appearance, he was not able to arrange to see his doctor until 25 October 2018. He stated that he could have downloaded the medical transportation request form before leaving, but there was no doctor in his hometown to whom he could have taken it to have it filled out. He explained that the doctor in City B was the only doctor he went to – it had taken him a long time, involving many visits to different walk-in clinics, before he found this doctor and has been seeing him on a regular basis for some time. This doctor is an expert in the use of a non-conventional medication that has proved effective in relieving his colon and stress issues.

As background, the appellant said that he was currently “nfa” [no fixed address] and described how he and his wife were victims of a “deep state” conspiracy; the details of which the appellant

acknowledged were not relevant to this appeal.

The balance of the appellant's submission at the hearing went to argument, relating to how his doctor is a "specialist" and how his request for assistance for travel from his hometown to City B should be considered a crisis supplement (see Part F, Reasons for Panel Decision, below).

The ministry stood by its position at reconsideration.

### **Admissibility of additional information**

The panel finds that the information provided by the appellant in his Notice of Appeal and in his testimony at the hearing regarding the reasons for and timing of his travel from his hometown to City B, the nature of his relationship with his doctor, his "nfa" situation and the lack of gas receipts are in support of the information and records before the ministry at reconsideration, as this information tends to substantiate the circumstances before the ministry under which the appellant made his request for assistance. The panel therefore admits this information as evidence under section 22(4) of the *Employment Assistance Act*.

## PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request for medical transportation assistance to cover the costs of travel from his hometown (Town A) to an appointment with a physician in City B. More specifically, the issue is whether this ministry decision is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant: the appellant was not eligible for this assistance because the following requirements set out in section 2(f) of Schedule C of the EAPWDR were not met:

- The travel was to the office of a GP, not to the office of the nearest available specialist upon referral by a local GP or nurse practitioner, as required under paragraph (ii) of section 2(f), or to the nearest suitable hospital under paragraphs (iii) or (iv);
- The provision that there were no resources available to the appellant to cover the cost of the travel, as stipulated in paragraph (vi), had not been demonstrated.

The applicable legislation is from Schedule C of the EAPWDR:

### 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.

## **Analysis**

The position of the appellant is that Dr. X, his doctor in City B, is indeed a “specialist.” He has, after all, a doctor’s degree from a university in the field of medicine. He submits that a person with a doctor’s degree in any field is commonly considered a specialist in that field and to suggest otherwise, as the ministry has done, amounts to slander by minimizing his qualifications.

Even if the doctor is not considered a specialist, because of his limited resources as a recipient of disability assistance and not being able to find a suitable doctor in his home town, the appellant argues that he should be eligible for a crisis supplement to cover his costs to travel to his medical appointments, given how important this doctor’s treatment is for his health.

In the reconsideration decision, the ministry states that on the website of the College of Physicians and Surgeons of BC Dr. X is registered as a general practitioner with a medical clinic in City B.

In its decision, the ministry acknowledged that based on the medical transportation form submitted, it is satisfied that the appellant attended an appointment with a general practitioner in City B on 25 October 2018. However, as the appellant’s primary residence is in Town A, the ministry is unable to assist with travel costs from Town A to City B to see a GP. The ministry’s position is that assistance with travel outside of the local area is only available when the recipient is referred by a local GP to a specialist outside of the local area for services unavailable in the local area, or when the recipient must travel to the nearest suitable hospital. The ministry also noted that as the appellant travelled to City B before requesting assistance, he had sufficient resources to cover the transportation costs to get to City B. For these reasons, the ministry determined that the appellant is ineligible for assistance with any transportation costs he may have incurred to travel from Town A to City B.

### *Panel decision*

The panel must determine whether the ministry’s reconsideration decision is reasonably supported by the evidence or is a reasonable application of the legislation. In this case, the applicable legislation includes a definition of “specialist.” Under the definition, a specialist means a medical practitioner recognized as a specialist in a field of medicine or surgery in accordance with the bylaws made by the College of Physicians and Surgeons of BC (CPSBC).

Under the bylaws (sections 2-10 and 2-11) of the CPSBC, there are two categories of “Full” registrants – “General/family” and “Specialty.” Registrants in both categories must have a medical degree and be a licentiate of the Medical Council of Canada. General/family registrants must have certification from the College of Family Physicians of Canada (CFPC), while Specialty registrants must have certification from the Royal College of Physicians and Surgeons of Canada (RCPSC).

As noted above, in the reconsideration decision the ministry states that on the website of the CPSBC, Dr. X is registered as a general practitioner with a medical clinic in City B. The panel has verified this search, noting after his name is shown the letters CCFP, for Certificate of the College Family Physicians issued by the CFPC. The panel notes that no information has been provided that would show that Dr. X is a Fellow of the RCPSC. The panel therefore finds as fact that Dr. X is not a “specialist” as defined in section 1 Schedule C of the EAPWDR.

Accordingly the panel finds that the ministry was reasonable in determining that the appellant's travel from Town A to City B did not meet the criterion set out in paragraph (ii) of section 2(f) of Schedule C of the EAPWDR requiring the travel to be to the office of the nearest available specialist upon referral by a local GP or nurse practitioner. It also follows that the travel was not for any of the other purposes listed in paragraphs (i) to (iv).

Paragraph (vi) of section 2(f) provides that "there are no resources available to the person's family unit to cover the cost." In this context, "the cost" refers to the cost of transportation for one of the purposes listed in paragraphs (i) to (iv). As the appellant's travel was not for one of these purposes, paragraph (vi) does not apply.

At the hearing, the appellant suggested that his request to cover the cost of this travel from Town A to City B be considered as a request for a crisis supplement. The panel does not have the jurisdiction to make a new decision under a separate provision in the legislation. Nevertheless, the panel notes that the relevant subsections of section 57 of the EAPWDR, the legislation providing for crisis supplements, read:

- 57** (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if
- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
  - (b) the minister considers that failure to meet the expense or obtain the item will result in
    - (i) imminent danger to the physical health of any person in the family unit, or
    - (ii) removal of a child under the *Child, Family and Community Service Act*.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (3) A crisis supplement may not be provided for the purpose of obtaining
- (a) a supplement described in Schedule C, or
  - (b) any other health care goods or services.

With reference to subsection (3), because a visit to a general practitioner would likely be considered a "health care service," in the panel's view the cost for such a visit would likely not be covered by a crisis supplement.

## **Conclusion**

Based on the foregoing, the panel finds that the ministry's decision to deny the appellant non-local medical transportation assistance for his travel from Town A to the office of a GP in City B is reasonably supported by the evidence and is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision. The appellant is thus not successful in his 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

**Richard Roberts**

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

**2018 December 10**

PRINT NAME

**Rick Bizarro**

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

**2018 December 10**

PRINT NAME

**Patrick Cooper**

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

**2018 December 10**