

APPEAL #

### PART C – Decision under Appeal

In a reconsideration decision dated 22 November 2012, the Ministry determined the Appellant was not eligible for non-local medical transportation because her request did not meet the criteria as set out in Schedule C, Section 2(f)(vi) of the Employment and Assistance for Persons with Disabilities Regulation because resources were available to cover the costs.

### PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) Section 62  
Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) Schedule C,  
Section 2(f)

## PART E – Summary of Facts

The evidence before the Ministry at the time of the reconsideration decision included:

- A undated and unsigned Request for Non-Local Medical Transportation Assistance for 3 trips on July 6, 20 and 26 for \$129.60.
- A Request for Non-Local Medical Transportation Assistance for 2 trips dated October 24, 2012 for \$94.40.
- A Request for Non-Local Medical Transportation Assistance for 2 trips on September 17 and 24 dated October 24, 2012 for \$94.40.
- A Request for Non-Local Medical Transportation Assistance for 1 trip on October 12, 2012 dated October 24, 2012 with no estimated cost.
- A Request for Non-Local Medical Transportation Assistance for 2 trips on October 3 and 12, 2012 dated October 24, 2012 for \$94.40.
- A Request for Non-Local Medical Transportation Assistance for 1 trip on October 25, 2012 dated October 24, 2012 for \$47.20.

In the Request for Reconsideration, the Appellant explains she has been diagnosed with renal cell carcinoma and kidney cancer in the left side of her thyroid. She states her local family physician referred her to the closest cancer clinic in a nearby city and that she always asks if her treatments can be performed locally but she does travel to the cancer clinic when instructed to by her specialist. She says due to the loss of her husband and the diagnosis of cancer, the past three years have been difficult and she struggles with the side effects of her medications and depression. She concludes that she is deserving of the travel benefit and struggles to live let alone remember all the important paperwork.

In the Notice of Appeal the Appellant states she did not have the resources for the medical travel trips and that she had to borrow money.

In the Reconsideration Decision dated November 11, 2012, the Ministry stated that on October 25, 2012, the Appellant submitted requests for medical transportation forms for appointment dates on July 6, August 17, September 17, October 3, October 12 and October 25, 2012 and was subsequently issued funding for the October transportation costs but was denied coverage for the July, August and September trips because she did not seek prior approval from the Ministry. The Ministry acknowledged that the Appellant is designated as a Person with Disabilities and as such is eligible to receive general health supplements under Schedule C, Section 2 of the EAPWDR. The Ministry determined because the Appellant's local medical practitioner referred her to the nearest available specialist, the requests meet the criteria under EAPWDR, Schedule C, Section 2(f)(ii). Furthermore the Ministry determined because the transportation was to enable the Appellant to receive a benefit under the Medical Protection Act, the requests meet the criteria under EAPWDR, Schedule C, Section 2(f)(v). The Ministry states the Appellant reported that she used her disability assistance and any earned income to cover the costs of medical transportation. The Ministry concludes the Appellant had the resources to cover the cost of transportation for the July, August and September and therefore does not meet the criteria under EAPWDR, Schedule C, Section 2(f)(vi).

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At the hearing the Appellant stated she incurred a credit card debt to pay for the medical trips in July, August and September. She said that when she received a phone call from the Ministry asking how the trips were paid for, she had just completed a chemo-therapy session, had "chemo-brain" and was confused by the phone call because she had not expected one. She replied to the Ministry's inquiry at the time that she used her DA and her eligible earned income.

At the hearing the Ministry stated it is not able to reimburse for prior medical trips because a trip that already has happened means the Appellant had met the need at the time. The Ministry stated the Appellant received her eligible DA plus an eligible earned income of between \$400 and \$500 per month for the months of July, August, and September. The Ministry also suggested that the Appellant had an option of taking the med-trans bus instead of a private vehicle for the trips. The Appellant replied that she is physically incapable of taking the med-trans bus after a treatment.

**PART F – Reasons for Panel Decision**

The issue in this case is the reasonableness of the Ministry's decision to determine that the Appellant was not eligible for non-local medical transportation because her request did not meet the criteria as set out in Schedule C, Section 2(f)(vi) of the Employment and Assistance for Persons with Disabilities Regulation because there were resources available to cover the costs. The pertinent legislation in this case is as follows:

***EAPWDR, Schedule C Section 2***

*(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.*

The Appellant argues she is eligible for the medical transportation benefits and that she has severe health struggles that make it difficult to remember all the important paperwork. The Advocate argues that because of the Appellant's health struggles, it is easier for the Appellant to simply use a card rather than to fill out the paperwork with the Ministry for each trip. He argues the Appellant did not have the resources and that she incurred a debt to cover the costs of the trips.

The Ministry acknowledges the Appellant meets the legislative criteria under EAPWDR Schedule C, Section 2(f)(ii) and (v).

The Ministry argues the Appellant did not seek prior approval for the coverage of the medical trips in July, August and September and because she had successfully attended them, had the resources to

cover the costs of the trips made during those months.

The Appellant was found ineligible for the costs for medical transportation for some months (July, August and September) and eligible for the costs of the same transportation in other months (October) when her DA and earned income remained substantially the same. Although the Ministry representative argued the Appellant must have prior approval for the trips, the Panel finds this argument has no legislative basis although it does impact the legislative criteria related to available resources.

The fact that the Appellant did successfully make the trips without extra funding from the Ministry does indicate she managed to use her available resources to cover the costs. The Panel finds the Ministry reasonably determined that the Appellant not meet the criteria for medicals trips made in July, August and September as set out in EAPWDR Schedule C, Section 2(f)(vi) is a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.