

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "ministry") November 1, 2019 reconsideration decision denying the appellant's request for a medical transportation supplement to attend appointments with a Registered Clinical Counsellor because the ministry determined that the eligibility requirements set out in Schedule C, Section 2(1) (f) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) had not been met.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) – Section 62 and Schedule C, Sections 1 and 2(f)

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The appellant is a recipient of Persons with Disabilities (PWD) designation.

The evidence before the ministry at reconsideration included:

- The appellant's request for reconsideration form which included the following comments:
 - that they were requesting reimbursement of fuel costs and ongoing fuel costs to the post-traumatic stress disorder (PTSD) counsellor as well as to physiotherapy sessions twice weekly; and
 - that these are necessary medical appointments to assist in recovery from an assault that caused extensive physical and psychological damage;
- A letter dated October 9, 2019 from the appellant's physician supporting the appellant's request for funding and reimbursement of transportation costs to and from a clinical counsellor and extended physiotherapy appointments. The physician noted that the appellant is unable to take public transportation or have another person provide transportation as this causes anxiety and creates an added layer of trauma to the situation.
- A letter dated September 21, 2019 from the appellant's counsellor who wrote:
 - that she is a registered clinical counsellor;
 - that she provided twenty-seven one-hour counselling sessions to the appellant between January 29, 2019 and September 20, 2019, as well as five additional sessions from September 27, 2019 to October 22, 2019 and that they will be once a week ongoing.
- An undated Client appointment list from a health centre which included 4 pages of appointment and cancelled appointment dates from 2018 and 2019.
- A Request for Local or Non-Local Medical Transportation Assistance form dated September 24, 2019 in which the appellant requested \$14.80 per trip per week to attend appointments with the clinical counsellor. The form indicated the appellant's referring medical practitioner's name and in the area for the medical practitioner's stamp there is a Medical Centre stamp.

Additional Information

On the Notice of Appeal form dated November 8, 2019 the appellant noted that although the clinical counsellor is not registered with the College of Physicians and Surgeons, she is registered with the BC Association of Clinical Counsellors.

In the written submission the appellant wrote:

- The request was denied based on the fact that the counsellor is not on the list of College of Physicians and Surgeons and that although it is true she is not on the list she is in fact a Medical Practitioner and is registered with the BC Association of Clinical Counsellors and was recommended by WorkSafeBC (WSBC) which covers the costs of the treatment.
- WSBC does not cover all fuel costs, only any Km's over 40km in a round trip. The round-trip for the weekly sessions is 74km so WSBC only covers the cost of 34.6km per session.
- WSBC chose the appellant's counsellor because of her specializing in the type of counselling that meets the appellant's situation and that if the appellant were to have to see a different counsellor at this point, the recovery would be set back and cause unnecessary stress.
- The appellant would like to return to work as soon as possible but needs help in recovery and the budget is very limited while not working.
- There are no city buses in the appellant's area and due to emotional state is not able to ask someone else to drive.

In the written submission the appellant also included a copy of the October 9, 2019 letter from the physician supporting the request for transportation costs as well as the September 21, 2019 letter from the clinical counsellor, both of which were included in the Reconsideration Decision. Included in the written submission was a copy of the map showing the distance the appellant drives from home to the clinical counsellor. The appellant also included an

additional letter dated December 19, 2019 from the appellant's physician that confirmed the appellant's medical condition; that the appellant is not able to use public transportation; and that transportation costs not being covered by WSBC are required. The clinical counsellor also wrote that should this help not be provided the appellant's condition could worsen and more social and medical supports at a much higher cost than this request would be required.

The ministry's submission for the written hearing will be the reconsideration summary provided in the Record of Ministry Decision.

Admissibility of Additional Information

The panel admitted the appellant's written submission in accordance with section 22(4) of the Employment and Assistance Act because the information was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The ministry did not object to the written submission.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry reconsideration decision of November 1, 2019 denying the appellant's request for a medical transportation supplement to attend appointments with a Registered Clinical Counsellor because the ministry determined that the eligibility requirements in Schedule C, Section 2(1) (f) of the EAPWDR had not been met.

The relevant legislation is:

EAPWDR:**General health supplements**

62 (1) Subject to subsections (1.1) and (1.2), the minister may provide any health supplement set out in section 2 [general health supplements] [medical equipment and devices] of Schedule C to or for a family unit if the health supplement is provided to or for a person in the family unit who is

(a) a recipient of disability assistance,

Schedule C Section 1, definitions

"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*.

Schedule C Section 2

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.

The appellant's position is that a medical transportation supplement is necessary because they have no funds to continue attending weekly clinical counselling appointments for a severe medical condition, and by not attending the condition could worsen.

The ministry's position is that legislation clearly states that a medical transportation supplement may only be issued

to a person found eligible pursuant to EAPWDR Schedule C section 2(1)(f). The ministry argues that the appellant is requesting funds to travel to appointments with a clinical counsellor and not to a medical practitioner or specialist recognized by the College of Physicians and Surgeons of British Columbia, so there is no eligibility for the supplement.

Panel Decision

The panel notes in the Request for Reconsideration that the appellant had requested a transportation supplement to attend weekly clinical counselling as well as twice-weekly physiotherapy sessions. The ministry, in their Reconsideration Decision, noted that these were two separate issues and that a separate Reconsideration form was provided to the appellant regarding the request for transportation funds to attend physiotherapy sessions. Accordingly, the panel reviewed the decision in regards to the request for a medical transportation supplement to attend clinical counselling appointments only.

The authority for the ministry to provide a medical transportation supplement is EAPWDR Schedule C section 2(1)(f) which allows for a supplement to be provided to go to and from the local office of a medical practitioner, or the office of the nearest available specialist, or to the nearest suitable hospital as defined in the Hospital Insurance Act. EAPWDR Section 1 defines a specialist as being a medical practitioner recognized by the College of Physicians and Surgeons of British Columbia.

The appellant is requesting funds from the ministry to attend appointments with a clinical counsellor whose office is at a Medical Centre which is a 74km round-trip from the appellant's home. The appellant receives some funding for these trips from WSBC and is requesting \$14.50 per trip from the Ministry, which would allow attendance at these important sessions. The panel notes that there is written acknowledgement that the counsellor, although being a Registered Clinical Counsellor and having an M.D. in her title, is not a medical practitioner who is registered with the College of Physicians and Surgeons. The panel finds that a clinical counsellor does not meet the legislative definition of a specialist.

The panel finds that EAPWDR Schedule C section 2(1)(f) clearly outlines when the ministry may authorize a medical transportation supplement. Since the appellant is not attending the local office of a medical practitioner, nor the office of a specialist in a field of medicine or surgery, nor a hospital, the panel finds that the ministry was reasonable in determining that the appellant was not eligible for a medical transportation supplement.

Conclusion

For the reasons noted above, the panel concludes that the ministry's determination that the appellant is not eligible for a medical transportation supplement is a reasonable application of the applicable legislation in the appellant's circumstances, and confirms the decision. The appellant is not successful in this appeal.

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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

Janet Ward

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020 January 10

PRINT NAME

Kevin Ash

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 January 10

PRINT NAME

Barbara Insley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020 January 10