

APPEAL NUMBER
2020-00047

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated February 12, 2020, which held that the appellant was not eligible for a health supplement for transportation to attend a pharmacy because the legislation, section 2(1)(f) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (the Regulation), only provides a supplement to attend a local office of a medical or nurse practitioner, the nearest available specialist physician, or the nearest general or rehabilitation hospital.

The ministry approved the appellant's request for a medical transportation supplement to attend appointments with a physician.

PART D – RELEVANT LEGISLATION

Section 62 and Schedule C, section 2(1)(f) of the Regulation

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. Section 86(b) of the Employment and Assistance Regulation permits a panel to hear an appeal in the absence of a party if the party was notified of the hearing. Section 85(2) of that Regulation requires the chair of the tribunal to notify the parties of the date, time and place of a hearing at least 2 business days before the hearing is to commence. Due to the incorrect identification of the appellant's city of residence on the Notice of Appeal, mail delivery of the Notice of Hearing was delayed and was delivered only 1 full business day before the hearing date. However, tribunal records confirm that the appellant was notified of the date and time of the teleconference hearing both by an email from the tribunal and during a telephone conversation with tribunal staff, both occurring more than 2 business days before the hearing date. Therefore, being satisfied that the appellant was notified of the hearing in accordance with the requirements of section 85(2), the hearing proceeded without the appellant.

Information before the ministry at reconsideration

On January 9, 2020, the ministry received a "Request for Local or Non-Local Medical Transportation Assistance" form of the same date, completed by the appellant requesting assistance with vehicle costs to attend a clinic to see a physician for ongoing treatment. The appellant also submitted two form letters from the clinic, one dated January 9, 2020 and the other undated but received by the ministry on January 29, 2020. Both of the form letters provide information respecting the appellant's attendance at the clinic to see a medical practitioner and the need to attend a pharmacy. On the undated form letter, blank spaces have been filled in by hand indicating that the appellant's attendance at the pharmacy to pick up medication is required "once a week." This form letter also states that "on occasion, this client may be asked to get lab work including an ECG [electrocardiogram] done at the [named] hospital" but no information specific to the appellant is provided respecting the need for these tests. The January 9, 2020 form letter has blank spaces to provide a client's name and the type of financial support required and, in what appears to be a general statement respecting clients of the clinic, states "Due to the nature of this treatment, the client is required to visit the clinic once a month and is required to visit the pharmacy every day to Daily Witness their medication at the pharmacy."

Information provided on appeal and admissibility

The appellant's Notice of Appeal was completed on February 13, 2020 by means of a telephone conversation between the appellant and a tribunal staff member who took the following notes. The appellant needs to see a doctor for ECG's, brain scans, to pick up medications once a week, and make sure nothing's happened with the appellant's brain. Medication was especially covered and is over \$400 per month. The appellant needs to go to pharmacy, lives 45 minutes out of town and does not have a vehicle.

At the hearing, the ministry reviewed the reconsideration decision and the requirements of section 2(1)(f) of Schedule C. In response to questions from the panel, the ministry agreed that the reconsideration decision did not address section 26(5) of the Regulation which provides that "a family unit is not eligible for any assistance [defined in section 1 as disability assistance, hardship assistance or a supplement] in respect of a service provided or a cost incurred before the calendar month in which the assistance is requested." However, as the ministry's approval of coverage for transportation to attend past appointments at the clinic is not at issue, and as it would be administratively unfair to introduce a new basis for denial at appeal, the panel will not address this legislative requirement.

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In accordance with section 22(4) of the *Employment and Assistance Act* (EAA), the panel may consider evidence that is not part of the record if the panel considers it “reasonably required for a full and fair disclosure of all matters related to the decision under appeal.” On this basis, the panel admitted the information in the appellant’s Notice of Appeal and information provided by the ministry at the hearing, all of which directly relates to the appellant’s request for funding for medical transportation.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant a health supplement for medical transportation to and from a pharmacy was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable in concluding that the required transportation is not to a location or for services for which a medical transportation supplement may be provided under section 2(1)(f) of the Regulation?

Relevant Legislation

General health supplements

62 (1) 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....

Schedule C - 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.

Panel Decision

The ministry's position is that while the appellant is eligible for disability assistance, and therefore pursuant to section 62 may receive Schedule C health supplements, the specific requirements for a medical transportation supplement set out in section 2(1)(f) of Schedule C are not met. The ministry acknowledges the importance of the appellant's attendance at a pharmacy but concludes that transportation to the pharmacy is not one of the situations that are covered under the Regulation.

The appellant's position, based on the information in the Notice of Appeal, is that financial assistance is needed to cover the travel costs to see a doctor for ECGs, brain scans and to pick up medications once a week as well to attend a pharmacy.

As previously noted, the provision of a medical transportation supplement for travel to see a physician at a clinic has been approved by the ministry and is not at issue. Respecting the appellant's comments about the need to travel for ECGs, while reference to the need to occasionally travel to a hospital for such purposes is included in the generic language of one of the clinic's form letters, the panel finds that issue was not before it. There was no information before the ministry, or the panel, identifying that an application for medical transportation had been sought for that purpose. If the appellant has upcoming ECG appointments, that application and sufficient information would need to be put before the ministry to obtain prior approval.

The only issue before the panel involves the requested supplement to cover travel costs to attend a pharmacy. While the information as to how frequently the appellant is required to attend the pharmacy is not entirely clear, frequency is not relevant. The legislation authorizing health supplements for medical transportation sets out the only circumstances under which the supplement may be provided – attending an office in the local area of a medical or nurse practitioner, the office of the nearest available specialist in a field of medicine or surgery, or the nearest suitable general hospital or rehabilitation hospital. Other conditions specific to those locations must also be met, but it is not necessary to go into those details because a person cannot be eligible for this supplement if the transportation is not to attend one of those locations. In the appellant's case, transportation is to a pharmacy which is not included in the locations to or from which transportation costs may be provided. Therefore, the panel concludes that the ministry was reasonable when determining that the appellant's request for a supplement for transportation to and from a pharmacy does not meet the requirements of section 2(1)(f) of Schedule C of the Regulation.

Conclusion

The panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for a health supplement for medical transportation was a reasonable application of the legislation, and therefore confirms the decision. The appellant is not successful on 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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/03/05

PRINT NAME

Kent Ashby

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/03/05

PRINT NAME

Angie Blake

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/03/08