

APPEAL NUMBER  
2020-00209

**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 August 20, 2020, which approved the appellant's request for a health supplement for medical transportation for overnight accommodation costs for July 1<sup>st</sup> through July 6<sup>th</sup>, 2020 but denied the request for July 7<sup>th</sup>, July 8<sup>th</sup> and July 9<sup>th</sup>.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 62 and sections 1 and 2 of Schedule C

**PART E – SUMMARY OF FACTS**

With the appellant's consent, a ministry observer attended the hearing.

**Relevant Background Information**

As described by the appellant in statements dated July 23, 27, 29 and August 4, and confirmed at the hearing, having been able to secure someone to drive him on July 1, 2020, the appellant travelled from community A, where he resided, to community B (approximately 4 hours away) where he checked into a hotel at about 2:30 pm. and then attended the emergency department of a general hospital regarding eye pain. The appellant was advised to return to the hotel which was approximately 5 minutes from the hospital, contact Dr. H., an ophthalmologist in community B, and to return to the hospital immediately if the pain worsened. The appellant was unable to get an appointment with Dr. H. until July 7<sup>th</sup> at 11 am. According to the appellant, the appointment lasted for more than 1 hour and Dr. H. stated that the appellant's left eye was severely compromised by glaucoma and instructed the appellant to use eye drops to control pressure and to use a solution to help with dry eye.

The appellant submitted invoices to the ministry for overnight hotel accommodation for July 1<sup>st</sup> through July 9<sup>th</sup> (\$109.04 per night). On the basis that two nights would be sufficient, funding was approved in the amount of \$392.08, which the reconsideration decision itemizes as \$218.08 for two nights (July 5<sup>th</sup> and 6<sup>th</sup>), \$138 for mileage and \$36 for meals. On July 8<sup>th</sup>, the ministry provided a \$40 crisis supplement for food.

The appellant requested reconsideration and submitted letters from his family practitioner (July 22, 2020) and the Chief of Medical Staff of a regional hospital (July 23, 2020) confirming that the nearest on-call ophthalmologist in the appellant's health region on a holiday was at the hospital in community B. Based on this information, and being satisfied that the appellant was required to remain in close proximity to the hospital until being seen by Dr. H., the ministry approved the accommodation costs for July 1<sup>st</sup> through July 4<sup>th</sup> and issued a cheque for \$436.16 (nightly rate of \$109.04 x 4 nights). The ministry denied coverage for overnight accommodation for July 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup>, finding that there was no medical need for overnight accommodation.

**Information and documentation provided on appeal and admissibility**

In his Notice of Appeal (September 2, 2020), 11-page appeal submission and at the hearing, the appellant explained that he is not seeking reimbursement for the nights of July 8<sup>th</sup> and 9<sup>th</sup>, but that he was not invoiced for those nights separately. He is seeking funding for overnight accommodation for July 1<sup>st</sup> through July 7<sup>th</sup> and for meals for seven days. The appellant stated that he was not capable of driving on July 7<sup>th</sup> because dilation of his eyes was severely debilitating until mid-afternoon of July 8<sup>th</sup>. However, he did not return to community A and currently resides in community B. Included in the appellant's written appeal submission is online information indicating that the effects of eye dilation "will last for four to six hours for most people." Also included are copies of the stubs for both medical transportation cheques issued by the ministry. As the appellant notes, the first cheque identifies funding for July 6<sup>th</sup> and

7<sup>th</sup>, with the second cheque identifying funding for July 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup>.

At the hearing, the ministry reviewed the reconsideration decision and clarified that funding for meals is provided at \$4 per meal for a maximum total of \$12 per day. Accordingly, as the appellant was provided with \$36 for meals, he received funding for three full days.

The panel admitted the information provided on appeal by both parties, all of which directly related to the appellant's medical travel in July 2020, under section 22(4) of the *Employment and Assistance Act* as being information required for a full and fair disclosure of the matters related to the appeal.

## **PART F – REASONS FOR PANEL DECISION**

### **Issue on Appeal**

The issue on appeal is whether the ministry's decision to deny the appellant a medical transportation supplement for overnight accommodation for July 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> 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 when determining that the information did not establish a medical need for overnight accommodation on those days?

### **Panel Decision**

#### *Positions of the Parties*

The appellant's position is that he is eligible for overnight accommodation and meals for July 1<sup>st</sup> through July 7<sup>th</sup>. The appellant argues that the reconsideration decision erred in finding him ineligible for July 7<sup>th</sup> for two reasons: (1) he had already been approved and received funding for July 7<sup>th</sup> and (2) because he was not capable of driving back to community A until July 8<sup>th</sup> due to the effects of having his eyes dilated.

Noting the appellant's own description of having received eye care instructions from Dr. H., the ministry finds no evidence to suggest that the appellant could not travel back home the day of the appointment, July 7<sup>th</sup>. The ministry also notes that July 7, 2020 was a Tuesday, past the holiday and long weekend, meaning there were suitable hospitals with on-call ophthalmologists available in the appellant's local area after the appointment with Dr. H.

#### *Panel Analysis*

Section 62 of the EAPWDR provides that as a person in receipt of disability assistance, a person is eligible to receive a health supplement under section 2(1)(f) of Schedule C for the least expensive appropriate mode of transportation to or from:

- the office of the nearest available specialist in a field of medicine or surgery if referred by a local medical or nurse practitioner, and
- the nearest suitable general hospital

if the transportation is to receive a benefit under the *Medicare Protection Act*, and there are no resources available to cover the cost.

In the appellant's case, at reconsideration the ministry clearly indicates that it was satisfied that transportation by vehicle from community A to Community B to attend the general hospital on July 1<sup>st</sup> and the office of Dr. H. on July 7<sup>th</sup> was the least expensive appropriate mode of transportation and that

it was necessary to stay overnight from July 1<sup>st</sup> through July 6<sup>th</sup>. The ministry was also satisfied that the services provided were under the *Medicare Protection Act* and that the appellant had no resources to meet the costs.

It is also clear from the reconsideration decision and the two cheques issued that the ministry has provided funding for a total of 6 nights' hotel accommodation and meal allowances for 3 days. However, based on the reconsideration decision and the two cheques issued, it is unclear what dates have been funded: the first cheque identifying July 6<sup>th</sup> and 7<sup>th</sup>, with meals for 3 days, and the second cheque identifying July 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and, for a second time, July 6<sup>th</sup>.

Despite the discrepancy between the cheques and the reconsideration decision, at reconsideration the appellant was found eligible for a medical transportation supplement covering the nights of July 1<sup>st</sup> through July 6<sup>th</sup>. Regarding July 7<sup>th</sup>, the panel finds that even if only the typical 4 to 6 hours of recovery time from eye dilation is required following the appellant's late morning appointment, it is not reasonable to expect the appellant to then drive for 4 hours given his already compromised vision. Regarding July 8<sup>th</sup> and 9<sup>th</sup>, the panel finds that the ministry was reasonable in concluding that there is no evidence of medical need for accommodation, a fact that the appellant does not dispute.

### **Conclusion**

Having found the ministry's denial of funding for accommodation for July 7<sup>th</sup> unreasonable, the panel finds that the appellant should have been provided funding for accommodation for a total of seven nights (July 1<sup>st</sup> through July 7<sup>th</sup>) and for corresponding meal allowances. As the ministry has already provided funding for six nights' accommodation, funding for one night is outstanding. Regarding the meals allowance, as meals for three full days have been funded, depending on ministry rules regarding travel times, three full days and at least part of a fourth day are outstanding.

The panel finds that the ministry's reconsideration decision was not reasonably supported by the evidence, and therefore rescinds the decision. The appellant is successful on appeal.

## Schedule of Legislation

### Employment and Assistance for Persons with Disabilities Regulation, B.C. Reg. 265/2002

#### 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

##### 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.

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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)

2020/09/23

PRINT NAME

Jeremy T. Scott

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/09/23

PRINT NAME

Anne Richmond

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/09/23