

APPEAL NUMBER  
2020-00260

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the ministry reconsideration decision dated November 9, 2020. The ministry reconsideration decision held that the appellant was not eligible for a medical transportation health supplement to attend a physiotherapy appointment in a city 72 km from the appellant's home town.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Act ("EAPWDA") section 5, and  
Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR") section 62 and Schedule C  
section 2(1)(f).

## **PART E – SUMMARY OF FACTS**

The evidence before the minister at reconsideration was:

- The appellant is a person with disabilities (PWD) and is in receipt of disability assistance.
- The appellant had an October 28, 2020 appointment with a physiotherapist in a city 72 kilometers from the appellant's home. The appointment was to fit the appellant with a knee brace. The ministry subsequently paid for the knee brace.
- The appellant's statement in the request for reconsideration that the appellant had been "talking to the medical person and told to phone (the physio office) to make an appointment to get measurements for a knee brace".
- The appellant's non-local medical transportation assistance form dated October 30, 2020 (the "Assistance Form") requesting assistance for taxi and medi bus payments.
- An October 28 taxi receipt for \$13.45.
- A Medi Bus Service Ticket showing return travel from the hospital in the appellant's home town to the hospital in the physio's town on October 28, 2020. The ticket is cut off and does not show the amount paid for the transportation service.

At the hearing the appellant provided evidence that:

- The cost of transportation to the physiotherapist was \$47.45 in total for taxi and medi bus.
- The "medical person" mentioned in the appellant's request for reconsideration was a ministry worker.
- The appellant understood that the cost to obtain the knee brace, including travel, would be covered by the ministry.
- The Assistance Form was completed over the phone by the ministry two days after the physio appointment.
- The knee brace was prescribed by the appellant's doctor after x-ray had been taken. The appellant submitted the prescription to the ministry.

The panel finds that the appellant did travel out of town to attend a physio appointment necessary to supply the appellant with a knee brace. The appellant needed the knee brace and the ministry paid for the knee brace. The appellant travelled by taxi and medi bus to attend the out of town physio appointment. The cost of this travel was \$47.45 in total.

## PART F – REASONS FOR PANEL DECISION

The issue on this appeal is whether the ministry's decision to deny the appellant's request for travel assistance is either:

- Reasonably supported by the evidence; or
- A reasonable application of the legislation in the circumstances of the appellant,

The applicable legislation is section 5 of the EAPDWA and section 62(a) and Schedule C section 2 (1)(f) of the EAPDWR. These provisions are re-produced below:

### **Disability assistance and supplements**

**5** Subject to the regulations, the minister may provide disability assistance or a supplement to or for a family unit that is eligible for it.

### **General health supplements**

**62** 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,

### **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.

The appellant submits that the ministry directed her to make an appointment with the out of town physiotherapist. The appellant understood that the cost of the knee brace, including travel to obtain fitting for the knee brace, would be covered by the ministry.

At the hearing the ministry representative submitted that:

- The appellant's Assistance Form was incomplete – it lacked the required medical appointment information and medical practitioner stamp.
- Funding for non local medical transportation is an application separate and apart from the application for funding of the knee brace.
- The ministry's ability to provide a medical transportation health supplement is limited under Schedule C section 2(1)(f) of the EAPWDR.
- The appellant's request for non local medical transportation assistance does not meet the criteria in the Regulation.

Section 2 of Schedule C provides for transportation in four circumstances (only portions of the sections that might apply in this appeal are summarized):

- i) To the office of a medical or nurse practitioner in the local area;
- ii) To the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist by a local medical or nurse practitioner;
- iii) The nearest suitable general or rehabilitation hospital; or
- iv) The nearest suitable hospital.

The panel finds:

1. The appellant is a person with disability. The appellant is eligible to receive supplements under section 5 of the EAPWDA.
2. The appellant incurred expense to travel to a physio appointment on October 28, 2020. The physio's office was in a city 72 km distant from the appellant's home city. The panel finds that travelling 72 km, in the circumstances of the appellant, constitutes non-local travel. Consequently, the appellant would not be eligible for a transportation supplement for transportation to the office of a medical or nurse practitioner in the local area.
3. In order to be eligible for non-local travel under section 2(1)(f)(ii) the travel must:

- be to the nearest available specialist in a field of medicine or surgery;
- be by referral from a local medical or nurse practitioner.

A “specialist” is defined in section 1 of Schedule C as “a medical practitioner recognized as a specialist.” Section 29 of the Interpretation Act defines “medical practitioner” as “a registrant of the College of Physicians and Surgeons of British Columbia.” Based on these definitions, the panel finds that the physio that the appellant attended is not a medical practitioner, and therefore is also not a specialist. As a result, the panel finds that the appellant is not eligible for a transportation supplement to the nearest available specialist..

4. The physio that the appellant attended is not a “nearest suitable general hospital or rehabilitation hospital”. As such, supplement under section 2(1)(iii)/(iv) of the EAPDWR is also not available in the circumstances of the appellant.

The appellant did travel to an out of town medical appointment. However, the expense of that travel does not fit any of the eligibility criteria for travel stated in the EAPWDR. The panel finds that the ministry reconsideration decision is a reasonable application of the legislation in the circumstances of the appellant. The appellant is not successful on 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

Chris McEwan

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/12/08

PRINT NAME

Melvin Donhauser

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/12/08

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/12/08