

APPEAL NUMBER
2020-00282

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated December 14, 2020 where the ministry denied the appellant's request for reimbursement of doctor's fees incurred in completing forms for the appellant.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPDR) – Section 57

PART E – SUMMARY OF FACTS

Evidence before the ministry at reconsideration consisted of the following:

- The appellant is a sole recipient with Persons with Disabilities designation whose file was opened April 9, 1999.
- On October 14, 2020, the ministry received an email from the appellant's third party insurance provider requesting reimbursement of doctor's fees to fill out forms. The request included duplicate copies of receipts as follows:
 - September 4, 2020 - \$200: "Disability Tax forms fill"
 - October 2, 2020 - \$100: "sparc form fill"(panel note: parking permit for Persons with Disabilities)
 - October 2, 2020 - \$20: "cryogen"(Panel note: material used in appellant wart removal)
 - September 11, 2020 - \$50: unknown reason
- On October 16, 2020, the ministry replied with information that the ministry has no authority to cover these costs as the ministry did not require the forms to be completed.
- On November 16, 2020, the ministry received a request from the third party requesting reconsideration on the appellant's behalf. On December 1, 2020. the appellant provided a request for reconsideration with the reason: "MSP indicated that the ministry should pay these medical expenses".

Request for Reconsideration

The appellant signed the request for reconsideration on December 1, 2020 with the comments noted above as the reason for the request.

Notice of Appeal

On December 12, 2020, the appellant signed a Notice of Appeal with the reason for appeal being: "The stench from the bench makes me clench".

Appellant Submissions

On January 10, 2021, the appellant signed a Release of Information form authorizing the designated person to attend the hearing and act on the appellant's behalf.

Admissibility

Apart from the release of information forms, the only submission from the appellant received after the date of reconsideration decision was the Notice of Appeal which contained no discernable information that might be considered evidence. The appellant's representative did provide new information at the hearing in respect of an explanation of the nature of two of the receipts as well as argument with respect to one of those receipts. The panel finds that this information relates to the decision under appeal and is required for a full and fair disclosure of all matters related to the appeal as allowed under section 22(4) of the Employment and Assistance Act.

Hearing

The panel conducted a teleconference hearing on January 29, 2021. Attending the hearing were the panel, ministry representative and the appellant's designated representative acting on a Release of Information form dated January 10, 2021. The appellant did not attend the hearing. The panel delayed the start of the hearing an appropriate amount of time to allow the appellant to attend. The panel then confirmed that the appellant had received the record and notice of the hearing and proceeded with the hearing as allowed under the Employment and Assistance Act, section 86(b) which requires notice to be confirmed before proceeding.

The appellant's designated representative proceeded with presenting the appellant's case. The representative noted that the presentation would focus arguments on one of the four receipts submitted by the appellant; the \$100 receipt labeled "sparc form fill". This receipt relates to the appellant's application for a parking permit for persons with disabilities. The representative argued that the Tribunal should overturn the ministry decision because the ministry and the tribunal shared a culture of denial with respect to appellant's requests that were not specifically provided for in the legislation but were needed to satisfy the community's intent which lies outside the legislative framework. The representative noted that the community had decided that persons with disabilities are entitled to and should be provided access to designated parking as a right outside of that provided specifically in the legislation. It then follows that the tribunal should break with the culture of denial which the representative alleges exists and overturn the ministry decision. The representative then argued that a parking permit could also be approved on the basis that the appellant's wheelchair required a specific additional width of parking space that

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should qualify as an accessory under EAPWDR, Schedule C. In response to a question, the representative had no information to offer with respect to the other receipts except that the \$20 receipt marked "cryogenic" was in fact for the portion of a wart removal that could not be claimed through MSP.

The ministry representative responded to the statements of the representative by noting that there were some doctor's form filling fees that could be reimbursed by the ministry, such as any form required by the ministry for an application for disability status as well as others where the ministry required the form for a specific program. However, these form filling expenses were covered only after a pre-approval was received. The ministry representative noted that the appellant had not been required by the ministry to have any forms filled to qualify for programs under the legislation and had thus refused the appellant's request.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reconsideration decision which denied the appellant's request for re-imbursment for doctor's fees incurred in completing forms because:

- The ministry has no authority to pay the doctor's fees as the appellant receives medical expenses through the Ministry of Health Medical Services Plan (MSP) and ministry policy is that the ministry has no authority to meet the cost of medical expenses not covered by MSP, unless the expenses are clearly specified in the Employment and Assistance Act (EAA) /Regulation (EAAR) or the Employment and Assistance for Persons with Disabilities Act (EAPWD) /Regulation (EAPWDR);
- The request does not meet all of the requirements of Section 57(1) of the EAPWDR;

was reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Ministry Position

The ministry in its reconsideration decision notes the following:

- As a recipient of disability assistance, the appellant receives medical coverage through MSP and it is ministry policy that there is no authority for the ministry to meet medical expenses that are not specifically covered under the provisions of the EAA/EAAR, EAPWD/EAPWDR or where the appellant is required to submit a form that was required to determine eligibility under a program covered by the legislation. The ministry noted that there was little specific information as to the reason behind the requirement for any of these forms and a review of the appellant's file indicates there were no requests by the ministry to have these forms completed or to be completed to determine the appellant's eligibility for a benefit under either of the EAPWD/EAPWDR.
- As the appellant's request for reimbursement's of doctor's fees for completing forms is not specifically referred to in the EAPWD/ EAPWDR, the ministry will consider the appellant's request as a crisis supplement under EAPWDR, section 57(1).
- Under Section 57(1), the ministry may provide a crisis supplement to a family unit that is eligible for disability assistance if:
 - The family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense because there are no resources available to the family unit, and;
 - Failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit, or removal of a child under the Child, Family and Community services Act.
- The ministry acknowledges the appellant could not have reasonably foreseen the costs associated with having a doctor complete the forms, and so considers this as satisfying the condition of being an unexpected expense. However, as the doctor's fees have already been paid, the ministry asserts that the appellant does have the resources available. Further, as the situation surrounding the request is not fully known, the ministry finds there is no evidence to support the appellant's health being in urgent danger. As all of the requirements of section 57(1) have not been met, the request is denied.

Appellant Position

The appellant's sole argument is that MSP has indicated that the ministry should pay for these medical expenses. At the hearing, the appellant's representative acknowledged that the ministry has a history of not reimbursing fees by doctors to fill forms. With respect to the \$100 sparac receipt, the representative asserted that the tribunal is required to overturn the ministry decision in order to satisfy community standards which, in the opinion of the representative, generally hold that community support for access must be upheld. Further, the representative argued that the provisions of EAPWDR, Schedule C, section 3.2, where the ministry is allowed to cover certain expenses for an accessory to a wheelchair, applies in the situation of needing additional width in a parking space to accommodate a wheelchair.

The representative had no argument or information with respect to the remaining receipts except to advise that the \$20 receipt marked "cryogenics" was not a form filling expense but rather had to do with the portion of the wart removal medical expenses the appellant was informed couldn't be claimed under MSP.

Panel Decision

The ministry reconsideration decision firstly points out that the appellant receives medical coverage under MSP and that the ministry lacks the authority to cover medical expenses not covered by MSP unless the requirement has been clearly specified in the EAA/EAAR, EAPWD/EAPWDR. The panel concurs with this determination and notes that medical expenses covered by the ministry under the EAA/EAAR and EAPWD/EAPWDR are those that are specifically identified medical supplements or medical equipment covered by a specific program. The medical expenses the appellant has submitted are clearly not any of the supplements or equipment contained in the EAA/EAAR and EAPWD/EAPWDR legislation. Medical expenses such as doctor's fees are covered under the MSP. The panel agrees that the ministry has no discretion in reimbursing expenses for forms filled by doctors unless the form was requested by the ministry or required to determine eligibility for a health supplement or program under the EAPWD/EAPWDR and a pre-approval is in place. The ministry acknowledged at the hearing that expenses related to doctors filling out forms are covered when it is a specific requirement of the ministry to determine eligibility, such as an application for Persons with Disabilities coverage but only after receiving pre-approval. In the panel's view, the ministry has reasonably determined that their files contain no record of these forms being required by the ministry and the receipts do not relate to any programs under the EAPWD/EAPWDR and the decision to refuse the reimbursement request was a correct application of the legislation.

As to EAPWDR, section 57(1) and the use of a crisis supplement for doctor's fees for filling out forms, the panel agrees that the ministry's determination is reasonable. In the absence of any other evidence, the appellant's request fails to meet the requirement of the family unit being unable to meet the request (as it in fact had already done), and there is no basis to conclude that the family unit was in imminent danger to physical health as a result of the denial of the request.

Neither the appellant nor the appellant's representative has provided any evidence which disputes the facts here. The appellant argues that MSP has suggested the ministry should reimburse these doctor's fees however no evidence of this was provided. The appellant's representative has argued that the tribunal should refer to community standards of justice that would find the appellant as a disabled person must have access to a disabled parking space and on that basis would overturn the decision.. The panel notes that its authority comes from the Employment and Assistance Act and it is restricted to considering the reasonableness of the ministry reconsideration decision based on the evidence and the application of the legislation in the circumstance of the appellant. As to the argument that a designated disability access parking space should be considered a needed accessory to the appellant's wheelchair, the panel notes this argument fails to establish any reasonable basis or reference under which a parking space is or could be considered an accessory.

Conclusion

The panel confirms the ministry reconsideration decision as it was a reasonable application of the legislation in the appellant's circumstances. The appellant is not successful upon appeal.

Employment and Assistance for Persons with Disabilities Regulation

Crisis supplement

57. (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit, or

(ii) removal of a child under the Child, Family and Community Service Act.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

(a) if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit;

(b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of

(i) the family unit's actual shelter cost, and

(ii) the sum of

(A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or

(B) the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D,

as applicable, for a family unit that matches the family unit;

(c) if for clothing, the amount that may be provided must not exceed the smaller of

(i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and

(ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2]

(7) Despite subsection 4 (b), a crisis supplement may be provided to or for a family unit for the following:

(a) fuel for heating;

(b) fuel for cooking meals;

(c) water;

(d) hydro.

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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

Keith Lacroix

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/01/29

PRINT NAME

Joan Cote

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/01/29

PRINT NAME

Anne Richmond

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/01/29