

APPEAL NUMBER
2021-0078

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision which denied the appellant's request for coverage of fees in excess of the \$170 allowed by the ministry based on a fee schedule administered by Pacific Blue Cross (PBC) for eye glasses. The ministry determined that the request did not meet the requirements of Schedule C, section 1 "basic eyewear and repairs" of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 5.
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 62.1.
Employment and assistance for Persons with Disabilities Regulation (EAPWDR), Schedule C, sections 1 and 2.1.

PART E – SUMMARY OF FACTS

Evidence before the ministry at reconsideration consisted of the following:

- The appellant has been designated as a Person with Disabilities (PWD) and is in receipt of disability assistance.
- On March 15, 2021, the appellant contacted the ministry to request a reconsideration of the funding denied for the cost of bi-focal glasses with a total quoted cost of \$609. The appellant stated that PBC was prepared to pay only \$170 of this amount.
- The appellant provided the following documents:
 - A quote from an Optometry supplier showing \$420 for ophthalmic lenses and \$189 for frames with a total cost of \$609.
 - A web claim processed on March 12, 2021 showing an eligible amount of \$170 of the total cost of \$609 for “bifocal glasses 4D or less”.
- On March 24, 2021, the appellant signed a request for reconsideration with an explanation that the appellant has strabismus and requires “only a certain size of frames that cover my range of sight”.

Reconsideration Decision

The appellant signed the Request for Reconsideration on March 24, 2021 with commentary as follows:

- *“This is in reference to the rejection of coverage for my eyeglasses, which has been rejected due to the partial coverage limits. The frames and lenses in which I selected were as cost effective as we could have selected and after submitted by the Optical Clinic I was denied \$427.00 of the \$606 total cost. I am writing to request reconsideration as I have any issues with my vision and current frames/lenses that I have had more than 15 years. In that time my vision has changed as well.*

I am limited to the size of frames that I can use as I have Strabismus and so therefore there are only certain size of frames that cover my range of sight.

I have only been receiving \$300 of CPP monthly since 2004 and my wife was the sole provider of the home as I am disabled. She has recently passed away suddenly leaving me with no income to pay utilities and rent, therefore with the assistance of my family I am working to become more independent and was recently approved for income assistance. I am very grateful for the support in which I have been shown/given but with my rent at \$1100 per month and utilities running \$400 a month (my portion) I am in no situation with an income of \$1300 per month to be able to cover any additional cost for my medical needs as I am not even getting by at the current moment.

I am hoping that if I am able to get my glasses replaced and being able to see and read clearly I would possibly be able to do more independently as this is a daily struggle not being able to see clearly daily.

I would therefore humbly request you to reconsider my application on behave of the reasons I provided.

I am looking forward to a positive reply.

Best Regards”

Notice of Appeal

On April 18, 2021, the appellant signed a Notice of Appeal which contained the following under reasons:

- *“Without my partner to do all the paperwork, Emails I found myself needing new glasses to read and alone now I need to get new glasses to be more independent and successful caring for myself.”*

Appellant Submissions

On April 25, 2021, the appellant’s daughter provided the following email:

- *“You will be seeing this Monday morning I hope.*

I am the appellant’s daughter and assisting with some support as the appellant tries to get some coverage for many reasons to have proper eye glasses that match his current prescription requirements.

I would like to also add that some added stress that has currently risen is the home in which he is currently renting will be listed and likely sold soon so he is struggling to be able to use computer and paper applications to apply for housing.

I can assist him but only so much and to gain independence it would be ideal if he could be receive new glasses and lenses.”

Admissibility

The panel notes that both the Notice of Appeal and email from the appellant’s daughter were issued after the date of the reconsideration decision. The panel considers that, except for the portion of the email from the appellant’ daughter which discusses the appellant’s rental situation, the information is not considered to be new information and requires no admissibility ruling. With respect to the information on the appellant’s rental situation, the panel considers this to be new information but is relevant to the issue at hand and should be included for a full and fair hearing as allowed by section 22(4) of the Employment and Assistance Act.

Hearing

The panel conducted a written hearing on May 17, 2021 as requested by the appellant and consented to by the parties pursuant to section 22(3)(b) of the Employment and Assistance Act. As noted above the appellant’s daughter submitted an email for the hearing. The ministry indicated in an email dated May 4, 2021 that the ministry’s submission in this matter will be the reconsideration summary provided in the Record of Ministry decision.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reconsideration decision which denied the appellant’s request for coverage of fees in excess of the \$170 provided in a fee schedule administered by Pacific Blue Cross (PBC) because the request does not meet the requirements of Schedule C, section 1 “basic eyewear and repairs” of the Employment and Assistance for Persons with Disabilities Regulation, was reasonably supported by the evidence or is a reasonable application of the legislation in the circumstance of the appellant.

Ministry Position

Under the heading of basic eligibility, the ministry notes that section 62(1) of the EAPWDR allows the ministry to provide an optical and eye exam supplements. The ministry notes the appellant as a recipient of disability assistance meets the criteria in section 62.1(1)(a), subject to the determination of further eligibility of the specific request under EAPWDR, 62.2 and Schedule C, sections 1, 2.1 and 2.2.

The ministry then indicates that EAPWDR, Schedule C, section 2.1 allows the ministry to provide the following optical supplement to a family unit that satisfies EAPWDR, section 62(1):

- Basic eyewear and repairs.
- Pre-authorized eyewear and repairs.

The ministry states that EAPWDR Schedule C, section 1 defines basic eyewear and repairs and pre-authorized eyewear and repairs as follows:

- “basic eyewear and repairs” means any of the following items that are provided by an optometrist, ophthalmologist, or optician:
 - (a) for a child who has a new prescription, one pair of eyeglasses per year consisting of the least expensive appropriate
 - (i) single-vision or bifocal lenses, and
 - (ii) frames;
 - (b) for any other person who has a new prescription, one pair of eyeglasses every three years consisting of the least expensive appropriate
 - (i) single-vision or bifocal lens, and
 - (ii) frames;
 - (c) for a child or other person,
 - (i) new lenses at any time if an optometrist, ophthalmologist, or optician confirms a change in refractive status in either eye,
 - (ii) a case for new eyeglasses or lens, and
 - (iii) necessary repairs to lenses or frames that come within this definition.
- “pre-authorized eyewear and repairs” means eyewear and repairs provided by an optometrist, ophthalmologist or optician and for which pre-authorization is given by the minister but does not include basic eyewear and repairs.

The ministry then indicates that in the absence of any other information, the ministry utilizes the Optometrists Fee Schedule, prepared and administered by Pacific Blue Cross (PBC) to determine the least expensive eyeglasses to fulfill the request. The Optometrists Fee Schedule sets out the following for Bi-Focal glasses:

Fee Code	Description	Amount
330	Bi-focal 4 D or less	\$170.00
	Total:	\$170.00

The ministry indicates the appellant’s request is based upon a need for a size of frame that will accommodate the appellant’s condition of strabismus. However, the ministry notes that the request lacks the support of a confirmation of the appellant’s condition by an eyecare professional and the ministry lacks any information to support this as being medically necessary. The request is denied and the appellant’s approval for \$170 remains in place.

Appellant Position

In the Request for Reconsideration, the appellant asserts that they have strabismus and require a certain size of frames that cover the appellant’s line of sight. The appellant indicates that without the appellant’s partner to do paperwork, the appellant needed new glasses to be more independent. The appellant’s daughter indicates that the appellant needs proper eyeglasses that match his current prescription requirements and that there is currently added stress on the appellant due to impending accommodation changes.

Panel Decision

The panel notes and agrees with the ministry’s partial overview of the legislative framework under which the request was considered.

- EAPWDA, section 5 provides the ministry with authority to provide disability assistance or a supplement to a family, subject to the regulations.
- EAPWDR, section 62.1(1) authorizes the ministry to provide a health supplement set out in section 2.1 (optical supplement) of Schedule C of the EAPWDR to an eligible family unit who is a recipient of disability assistance, along with others who qualify such as recipients of hardship assistance, etc.
The panel confirms the ministry view that as a recipient of disability assistance, the appellant satisfies the basic eligibility of being entitled to receive a supplement, subject to specific further eligibility requirements in the legislation.
- EAPWDR, Schedule C, section 2.1 authorizes the ministry to pay for the following supplements for a family unit qualifying under 62.1:
 - a) basic eyewear and repairs
 - b) pre-authorized eyewear and repairs.
 These supplements are defined terms under the definitions section of EAPWDR, Schedule C. The ministry indicates, and the panel concurs, that in the appellant’s case the entitlement is:
 - “b) for any other person who has a new prescription, one pair of new eyeglasses every three years consisting of the least expensive appropriate:
 - (i) single-vision or bifocal lenses, and
 - (ii) frames.
- The following is a the relevant part of the invoice from the appellant's optometrist which was attached to the claim submitted to PBC:

Qty Description	Price	Amount
2 Ophthalmic Lens	\$210.00	\$420.00
2 Anti-reflection	\$0.00	\$0.00
	Total	\$420.00
Frame (added in writing)		189.00 (added in writing)
		609.00 (added in writing)

- Based on this claim, the PBC issued an approval for \$170.00 which is the fee code in the PBC fee schedule for this pair of glasses. The panel notes that there is no information here to indicate the appellant’s special need, nor is there any information for the ministry to approve a claim amount which substantially exceeds the fee code.
- The ministry indicates that in the absence of other information, they have utilized the fee schedule (Optical Supplements, Opticians Fee Schedule) to fulfill the requirement of the legislation of providing the least cost appropriate alternative. The panel considers this to be a reasonable approach provided there is no other information, such as a specific prescription to cover a special need and that may provide a basis for the ministry to determine that this is the least cost appropriate eyeglasses. While the panel is aware using a third-party administrator is useful primarily in determining the least cost, the panel finds that this is reasonable for determining the appropriate least cost alternative in the absence of specific information in a prescription.

- The ministry has determined, based on the information that is available to them, that the least cost appropriate alternative is \$170 and have rejected the appellant's claim for \$609 which contains no information on the special need of the appellant. The panel notes here that there is no specific requirement for the appellant to have a professional opinion outside of a prescription. However, it seems reasonable to the panel that a request for eyeglasses to accommodate the appellant's strabismus (the special need) at a cost of 3.6 times the amount provided under the fee schedule merits a prescription or letter from a professional outlining the special need and discusses why this is the least cost appropriate option. In the absence of having the two parties at the hearing, the panel wonders whether the appellant simply needs to obtain a new prescription outlining the basis for the special need and then requesting pre-authorization, for example, item code 60507 Special Frame (adults and children) which the PBC fee schedule indicates may be reimbursed at the wholesale cost. In the absence of this information that supports the special need from a professional, the panel finds the ministry reconsideration to be a reasonable application of the legislation.

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.

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.

Employment and Assistance for Persons with Disabilities Regulation

Health Supplements

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,
- (b) a family unit in receipt of hardship assistance,, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Optical supplements

62.1 The minister may provide any health supplement set out in section 2.1 [optical supplements] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Eye examination supplements

62.2 (1) Subject to subsections (2) and (3), the minister may provide a health supplement under section 2.2 [eye examination supplements] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

(2) A health supplement under subsection (1) may only be provided to or for a person once in any 24 calendar month period.

(3) A health supplement under subsection (1) may only be provided if payment for the service is not available under the Medicare Protection Act.

Schedule C

Health Supplements

Definitions

"basic eyewear and repairs" means any of the following items that are provided by an optometrist, ophthalmologist, or optician:

- (a) for a child who has a new prescription, one pair of eye glasses per year consisting of the least expensive appropriate
 - (i) single-vision or bifocal lenses, and
 - (ii) frames;
- (b) for any other person who has a new prescription, one pair of eye glasses every 3 years consisting of the least expensive appropriate
 - (i) single-vision or bifocal lenses, and
 - (ii) frames;
- (c) for a child or other person,
 - (i) new lenses at any time if an optometrist, ophthalmologist, or optician confirms a change in refractive status in either eye,
 - (ii) a case for new eye glasses or lenses, and

- (iii) necessary repairs to lenses or frames that come within this definition;
"change in refractive status" means a change of not less than 0.5 dioptres to the spherical or cylinder lens, or a change in axis that equals or exceeds
- (a) 20 degrees for a cylinder lens of 0.5 dioptres or less,
 - (b) 10 degrees for a cylinder lens of more than 0.5 dioptres but not more than 1.0 dioptre, and
 - (c) 3 degrees for a cylinder lens of more than 1.0 dioptre

"eye examination" means a full diagnostic examination of a person's eyes by an optometrist or an ophthalmologist, that includes (a) a determination of the refractive status of the eyes and of the presence of any observed abnormality in the person's visual system, (b) any necessary tests connected to making determinations under paragraph (a), and (c) the provision of a written prescription for lenses if necessary;

"ophthalmologist" means a medical practitioner who practises ophthalmology;

"optician" means an optician registered with the College of Opticians of British Columbia

"optometrist" means an optometrist registered with the College of Optometrists of British Columbia established under the Health Professions Act

"pre-authorized eyewear and repairs" means eyewear and repairs provided by an optometrist, ophthalmologist or optician and for which pre-authorization is given by the minister, but does not include basic eyewear and repairs

Optical supplements

2.1 The following are the optical supplements that may be provided under section 62.1 [optical supplements] of this regulation:

- (a) basic eyewear and repairs;
- (b) pre-authorized eyewear and repairs.

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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)

2021/05/17

PRINT NAME

Robert Fenske

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/17

PRINT NAME

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/17