

APPEAL NUMBER  
2021-0099

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 4, 2021 which held that the appellant was denied transportation costs to attend a medical appointment outside their local area. That decision was based on the determination that the medical practitioner was not recognized as a specialist by the College of Physicians and Surgeons of BC.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), s. 62; Schedule C ss. 1 and 2.

**PART E – SUMMARY OF FACTS**

The information before the ministry at reconsideration included:

1. The appellant was designated as a Person with Disabilities (PWD) in receipt of disability assistance;
2. Among other ailments, the appellant suffers from a debilitating skin condition that requires treatment three times per week;
3. The minister funded the transportation costs for the appellant to attend an appointment with a medical practitioner with a specialty practice of RCPSC – Dermatology (the “Specialist”). The distance from the appellant’s residence to that appointment and back to the appellant’s residence was approximately 300 km;
4. The Specialist referred the appellant to a medical practitioner with specialized training for NB-UVD Light Therapy that was located closer to the appellant’s residence (the “Family Physician”); and
5. The distance from the appellant’s residence to the appointment with the Family Physician and back to their residence was 115km.

At the hearing the appellant provided an additional collection of documents. Those documents included a Ride Activity Report indicating the appellant had attended 11 appointments with the Family Physician between April 2, 2021 and April 30, 2021, and a pamphlet describing a medication and a pamphlet describing Narrow Band UVB Light Phototherapy.

The panel considered the Ride Activity Report as reasonably required for a full and fair disclosure of all matters related to the decision under appeal. The Ride Activity Report indicated the appellant had used Care Transit. The Ride Activity Report clearly stated in all capitals and bold font “This is not an invoice” but it also provided a total ride cost for April (\$822.25) and stated “any donation towards the cost of your rides outlined below is greatly appreciated.”

The panel did not consider the pamphlets because the choice of treatment of the appellant’s ailment was not a matter under appeal.

The panel notes that the hearing was originally intended to be in person by video but as a result of the appellant’s technical issues it was conducted in person by telephone.

## PART F – REASONS FOR PANEL DECISION

### **Introduction**

The issue at appeal is whether the reconsideration decision dated May 4, 2021 which held that the appellant was denied transportation costs to attend a medical appointment outside their local area was reasonably supported by the evidence or a reasonable application of the enactment in the appellant's circumstance.

### **Summary of The Relevant Legislation**

Section 62 of the Employment and Assistance for Persons with Disabilities Regulation authorizes the minister to provide specified health supplements to a family unit in receipt of disability assistance.

Schedule C, section 2(1)(f) specifies that "the least expensive appropriate mode of transportation to or from" a medical practitioner in the persons local area or the office of the nearest available specialist are valid health supplements.

### **Extracts of The Relevant Legislation**

#### **EAPWDR section 62: 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.

#### **EAPWDR Schedule C**

##### **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.

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's Position**

The appellant explained to the panel that they do not want to use the bus to travel to the appointments with the Family Physician because they do not feel safe on the bus and there is an extremely long wait, up to 6 hours, after their appointment until the next scheduled bus trip that would return the appellant to their residence.

The appellant has been using the service of Care Transit and Care Transit has provided her with the Ride Activity Report and requested that she make a donation towards the cost of transporting the appellant.

The appellant stated that if they had requested further treatment from the Specialist that the ministry would have covered the cost of transportation and that would have been more expensive than the cost of transportation to the Family Physician.

The appellant also stated there are no Family Physicians in their local area that have specialized training for NB-UVD Light Therapy.

The appellant noted that if they moved to be in the same local area as the Family Physician that the appellant would be entitled to receive transportation assistance.

### **The Ministry's Position**

The ministry confirmed that the appellant was designated as a PWD and that the ministry accepted that the appellant did not have resources available to cover the cost of transportation to the appointments with the Family Physician.

The ministry confirmed that the Family Physician is registered with the College of Physicians and Surgeons of British Columbia and has a Certification in the College of Family Physicians or Canada. The ministry also confirmed that the Family Physician was located outside of the appellant's local area.

The ministry stated that the Family Physician was not a specialist as defined in Schedule C of the EAPWDR because the Family Physician was not recognized as a specialist by the College of Physicians and Surgeons of British Columbia.

### **The Panel's Decision**

The panel is sympathetic to the appellant's situation and the requirement to receive frequent treatment from a medical practitioner with specialized training. The panel also recognizes that there are no medical practitioners with the required specialized training in the appellant's local area and that it is not reasonable to expect the appellant to travel the very significant distance to be treated by a specialist.

However, the panel's review of the EAPWDR indicates that the ministry's authority to provide a transportation supplement is limited to a medical practitioner or nurse practitioner in the appellant's local area or the nearest available specialist. The ministry has no discretion under the EAPWDR to provide a transportation supplement to an appellant that requires treatment from a medical practitioner outside their local area.

The panel concludes that the ministry's determination that the Family Practitioner was not a specialist as that term is defined in Schedule C of the EAPWDR was reasonably supported by the evidence.

The panel concludes that the ministry's determination that the Family Practitioner was outside the appellant's local area was reasonably supported by the evidence.

The panel concludes that the ministry's determination that it did not have the authority to provide a transportation supplement to the appellant for treatment by the Family Practitioner was a reasonable application of the enactment in the appellant's circumstance.

### **Conclusion**

The panel confirms the ministry decision.

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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

Trevor Morley

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/05/31

PRINT NAME

Robert Kelly

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/31

PRINT NAME

Wendy Marten

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/31