

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 22, 2022, which determined that the appellant was not eligible for full coverage of the cost of glasses as per the Employment and Assistance for Persons with Disabilities Regulation, section 62.1.

In addition, the ministry determined it was unable to conduct a reconsideration of the eye exam expense as per section 16 of the *Employment and Assistance for Persons with Disabilities Act*.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (EAPWDA), section 16

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 62.1 and Schedule C, sections 1 and 2.1

Please refer to the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

Relevant Evidence Before the Minister at Reconsideration

Ministry records show:

- The appellant is a recipient of disability assistance.
- A claim for \$781.60 was submitted to Pacific Blue Cross (PBC) for coverage of bifocal glasses. A total of \$179.80 was approved on December 21, 2021.
- On February 18, 2022 the ministry reviewed the claim and authorized the products submitted.
- The appellant received coverage of \$170.00 for complete bifocal glasses 4D or less and \$4.90 for each lens for an add-on of cylinders to 3, for a total of \$179.80.
- As the total amount claimed was \$781.60, there was a difference of \$601.80.
- No claim for coverage of an eye exam was submitted or denied.

Invoice from Vision Care Clinic (Optometrists) - December 13, 2021

- comprehensive eye exam \$77.92

Pre-determination letter from Pacific Blue Cross - December 21, 2021

Claimant	Benefit	Submitted	Eligible	Deductible	App amount
appellant	MSDPR-vision	\$771.80	\$170.00	\$0	\$170.00

Response Messages

C5214 - Payment has been reduced as the maximum amount paid for this benefit has been reached.

C521F (Health) Eligible amount reduced due to eligible dollar pricing rule.

Claimant	Benefit	Submitted	Eligible	Deductible	App amount
appellant	MSDPR-vision	\$4.90	\$4.90	\$0	\$4.90
Total		\$781.60			\$179.80

Request for Re-consideration (January 11, 2022)

The appellant states she hasn't had glasses for over 20 years as she didn't have any coverage. She now needs to wear glasses 24/7 as her sight has deteriorated. She can't read without glasses and also needs them for driving. The appellant states she can't pay the \$432.80 that is requested after the \$179.80 deduction. She adds she will have these glasses for many years to come.

Receipt for Payment to Optometrists- January 26, 2022

- \$601.80

Additional Information

Appellant

Notice of Appeal (March 8, 2022)

The appellant states her glasses and eye exam should have been covered in full.

At the hearing, the appellant's representative added that although the appellant does understand there is a certain level of coverage available, she also believes the amount of coverage to be unrealistic. The appellant is unwell and so is not able to work.

Ministry

At the hearing, the ministry relied on the information in its record and added that in the legislation the definition of "basic eyewear" sets out what the ministry is able to provide as a health supplement. And PBC determines the amount of coverage.

However, with additional medical evidence, the ministry may consider special supplements that are medically essential such as special tints, oversized frames etc.. Also, ministry policy would consider situations where there has been a change to a medical issue in a very short time.

Other than for such special circumstances, the ministry does not have any provisions for additional funds for glasses beyond the amount available, as stated by PBC.

The panel determined the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue on appeal is whether the ministry's reconsideration decision that determined the appellant was not eligible for full coverage of the cost of glasses as per the EAPWDR, section 62, was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

In addition, was the ministry's decision that determined it was unable to conduct a reconsideration of the eye exam expense as per section 16 of the EAPWDA, reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant?

Relevant sections of the legislation can be found in the Schedule of Legislation.

Appellant Argument

The appellant argues she hasn't had glasses for over 20 years as she didn't have any coverage. She now needs to wear glasses 24/7 as her sight has deteriorated. She can't read without them and also needs them for driving. The appellant also argues that she can't pay the \$423.80 that is requested after the \$179.80 deduction.

Ministry Argument

Eyewear

- The ministry states it provides coverage of basic eyewear, except where pre-authorization is provided. In the absence of any additional medical information establishing a need for pre-authorized items, the rates for basic eyewear are determined through the Schedule of Fee Allowances – Optometrist.
- The amount the fee guide allows for basic eyewear of complete bifocal glasses 4D or less is \$170.00. The amount allowed for an add-on of cylinders to 3 is \$4.90 per lens. The total coverage allowable for the requested glasses is \$179.80, which was provided through PBC.
- The ministry argues it is not permitted to provide additional coverage for a health supplement for the appellant's basic eyewear and therefore finds the appellant is not eligible for full coverage for her glasses under the EAPWDR.

Eye Exam- Reconsideration

- The ministry states that although the appellant has not received a health supplement for an eye exam in the previous 24 months (and therefore, a maximum of \$44.83 for an eye exam could be available), under section 16 of the EAPWDA, the ministry is only permitted to provide reconsiderations on decisions that result in: discontinuation or reduction of disability assistance or a supplement; or denial of disability assistance, hardship assistance, or a supplement.
- As a request for coverage of an eye exam was not submitted to PBC by the appellant's optometrist, there was no decision and therefore the ministry is not permitted to provide a reconsideration for this request.

Analysis

Section 16, EAPWDA – reconsideration and appeal rights

Section 16 (c) states that a person may request the minister to reconsider a decision that results in a refusal to provide a supplement for someone in the family unit and that a person who is dissatisfied with

the outcome of a request for a reconsideration may appeal the decision that is the outcome of the request to the tribunal.

The panel notes a receipt for \$77.92 for a comprehensive eye exam was submitted as evidence. However, there is insufficient evidence to demonstrate that a claim for coverage of an eye exam was submitted or a decision made by the ministry.

As the panel finds there is no decision to reconsider, the panel also finds the ministry reasonably concluded it could not reconsider a decision for the eye exam as per section 16 of the EAPWDR.

Section 62.1 (EAPWDR) – optical health supplement

Section 62.1 states the minister may provide any health supplement set out in section 2.1 [*optical supplements*] of Schedule C to or for a family unit in receipt of disability assistance. The panel notes ministry records show the appellant is in receipt of disability assistance.

Schedule C, section 1 (EAPWDR) – definitions

“basic eyewear and repairs” includes bifocal lenses and frames, provided by an optometrist - for a new prescription, one pair of eye glasses every three years consisting of the least expensive appropriate bifocal lenses.

The ministry does not dispute the three-year timeframe.

“optometrist” is defined as an optometrist registered with the College of Optometrists of British Columbia established under the *Health Professions Act*. The panel notes the invoice from the Vision Care Clinic shows the health professionals as optometrists.

Schedule C, section 2.1 (EAPWDR) – optical supplements

Section 2.1 states the optical supplements that may be provided under section 62.1 [*optical supplements*] include “basic eyewear...”, as defined above.

The panel notes ministry records show a claim for \$781.60 was submitted to PBC for coverage of bifocal glasses and finds this claim meets the definition of basic eyewear (bifocal lenses and frames). The ministry argues that the rates for basic eyewear are determined through the Schedule of Fee Allowances – Optometrist and the amount the fee guide allows for basic eyewear of complete bifocal glasses 4D or less is \$170.00. The amount allowed for an add-on of cylinders to 3 is \$4.90 per lens. The panel notes ministry records show the appellant received total coverage from the ministry in the amount of \$179.80 for complete bifocal glasses - a difference of \$601.80.

Evidence submitted in the form of a receipt for payment (\$601.80, January 26, 2022) to the appellant’s Optometrist demonstrates the difference the appellant paid to her Optometrist for her glasses. With the evidence provided and considering the difference between the cost of the glasses (\$781.60) and the amount approved (\$179.80), the panel finds it is reasonable to conclude the ministry provided coverage for the least expensive appropriate bifocal lenses, in accordance with the definition above.

Therefore, the panel also finds the ministry reasonably determined the appellant was not eligible for full coverage for the cost of her glasses.

Conclusion

In conclusion, the panel finds the ministry decision which determined the appellant was not eligible for full coverage of the cost of glasses as per the EAPWDR, section 62.1 was reasonably supported by the evidence.

In addition, the panel finds the ministry decision which determined it was unable to conduct a reconsideration of the eye exam expense as per section 16 of the EAPWDA, was reasonably supported by the evidence.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Reconsideration and appeal rights

16 (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- (b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;
- (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
 - (i) the maximum amount of the supplement under the regulations, and
 - (ii) the cost of the least expensive and appropriate manner of providing the supplement;
- (e) a decision respecting the conditions of an employment plan under section 9 [*employment plan*].

...

Employment and Assistance for Persons with Disabilities Regulation

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.

...

Schedule C

Health Supplements

Definitions

1 In this Schedule:

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

(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;...

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

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.

Appeal Number 2022-0044

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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2022/03/22

Print Name

Effie Simpson

Signature of Member

Date (Year/Month/Day)

2022/03/22

Print Name

Jean Lorenz

Signature of Member

Date (Year/Month/Day)

2022/03/22