

### **Part C – Decision Under Appeal**

Under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated April 4, 2022, that denied the appellant funding for the full cost of \$320 for bifocal glasses. The ministry found that the lenses did not meet the legislated requirement that they be the “least expensive appropriate” lenses. The ministry approved funding for \$178.80 as set out in its Optical Supplements Fee Schedule Booklet (Fee Schedule).

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation (the Regulation)

- Sections 1 and 2.1 of Schedule C

**Part E – Summary of Facts****Information before the ministry at reconsideration**

The appellant is designated as a Person with Disabilities (PWD) and receives Medical Services Only (MSO) assistance.

On February 24, 2022, Pacific Blue Cross, acting on behalf of the ministry, approved coverage for bifocal glasses (frame and lenses) up to \$170.80. The appellant's prescription for glasses dated December 8, 2021 indicated as follows:

	Sphere	Cylinder	Axis	Prism	Base	Reading Addition
Right Eye	-1	-1.25	105	0		2.25
Left Eye	-1.5	-1	65	0		2.25

Ministry records indicate that on March 1, 2022, the appellant contacted the ministry to advise that the appellant had an emergency – the appellant's glasses had broken and \$140 was needed to repair them. The appellant was advised that the ministry is unable to assist with costs above what Pacific Blue Cross fees for service cover. Later that day, by fax, the appellant requested "reconsideration" for the balance of the cost of the glasses. The appellant also submitted an optometrist's bill for \$320, also dated, March 1, 2022, for glasses itemized as follows:

1. Frame \$50.00
2. Ophthalmic lens, Maestro HD, 1.5 EX3 2 @ \$135

Note: Emergency glasses

On March 3, 2022, the ministry reviewed the reconsideration request and noted that on February 24, 2022, Pacific Blue Cross covered \$179.80 for glasses, which is the maximum under the Fee Schedule. The approved funding was itemized as follows:

Code	60330 Bifocal lenses and frames 4D or less	Cost: up to \$170
Code	60342 Cylinders to 3	Cost: up to \$9.80 (\$4.90 per lens)

The appellant also provided a Request for Reconsideration form dated March 21, 2022 which included the following information:

- The glasses are required for everyday use and the appellant needs them fixed.
- Diabetes affects the appellant's eyesight significantly.
- The appellant cannot cover the remaining balance - the "change off of PWD has significantly changed my financial situation."

**Information provided on appeal and admissibility**

The appellant's Notice of Appeal dated April 7, 2022, in which the appellant's reasons for appeal are indicated as "Ministry won't cover other half of cost of glasses, won't cover the entire amount. Progressive lenses wanted, not bifocals."

No additional submissions were provided for the appeal by the appellant. The ministry's appeal submission indicated that the ministry would rely on its reconsideration decision.

The panel admitted the additional information in the Notice of Appeal under section 22(4) of the *Employment and Assistance Act* as information reasonably required for full and fair disclosure of the matters at issue.

The positions of both parties are set out in Part F of this decision.

**Part F – Reasons for Panel Decision****Issue on Appeal**

The issue on appeal is whether the ministry's decision to deny the appellant funding for the full cost of glasses was a reasonable application of the applicable enactment in the circumstances of the appellant. That is, was the ministry reasonable when determining that the requested lenses were not the least expensive appropriate lenses.

**Panel Decision*****Positions of the Parties***

The appellant's position is that full funding is needed so that the appellant can get glasses, which the appellant needs for everyday use. The appellant also reports that diabetes significantly affects the appellant's eyesight. The appellant believes the ministry's decision is incorrect because the loss of benefits due to being "off of PWD" leaves the appellant unable to afford the balance of the cost of having the glasses repaired.

The ministry's position is that the lenses requested by the appellant do not meet the requirement of section 1 of Schedule C that they be the least expensive appropriate lenses. The ministry was satisfied that the appellant requested value frames (\$50) but that the lenses were higher cost HD (High Definition) lenses that cost \$270. The ministry states that HD lenses are created using a digital scan of the appellant's eyes and are highly customized. The ministry found that no information was provided to establish that the higher cost lenses are the least expensive appropriate lenses. The ministry stated that it relies on its Fee Schedule to establish the "least expensive appropriate" lenses.

***Panel Analysis*****Preliminary Note:**

In the ministry notes for March 1, 2022 and the reconsideration submission the appellant refers to needing glasses repaired and subsequently, in the Notice of Appeal, to wanting progressive lenses, not bifocal lenses. However, the only information before the panel that specifies what services are being requested is the bill from the optometrist, which is the information referenced by the ministry in its reconsideration decision. Accordingly, the panel's discussion will only address the lenses described in the optometrist's bill.

Section 2.1 of Schedule C of the Regulation states that the ministry may provide an optical supplement for basic eyewear and repairs. Section 1 defines "basic eyewear and repairs" as

including, where there is a new prescription, one pair of eye glasses every 3 years consisting of the “least expensive appropriate” single-vision or bifocal lenses and frames. The legislation does not refer to the Fee Schedule Booklet or otherwise specify or limit the cost of single-vision or bifocal lenses. Accordingly, the panel finds that the legislation provides the ministry with discretion when determining what lenses are the least expensive appropriate lenses. The panel also notes that while the ministry states that it relies on the Fee Schedule to determine what are the least expensive appropriate lenses, it also acknowledges the possibility that additional information could have established that the requested HD lenses were the least expensive appropriate lenses.

The panel finds that the ministry was reasonable to conclude that the information provided is not sufficient to establish that the HD lenses are the least expensive appropriate lenses for the appellant’s glasses. The appellant states that diabetes significantly affects the appellant’s eyesight and that the breakage of the appellant’s glasses resulted in an emergency need for glasses, but there is no information indicating why HD lenses are required or why less expensive lenses would not be appropriate or sufficient to address the appellant’s vision needs. The prescription for glasses does not identify the need for HD lenses or identify the need for a particular type of lenses and the only explanatory commentary in the optometrist’s bill is identifying the need for the glasses as an emergency, which the panel finds relates to the immediate need to replace the appellant’s broken glasses. In the absence of information establishing the need for HD rather than less expensive lenses, the panel finds the ministry reasonable to use the optical Fee Schedule to determine the cost of the least expensive appropriate lenses for the appellant. The panel notes that the maximum amounts listed in the Fee Schedule for the appellant’s prescription are those cited by the ministry.

### **Conclusion**

The panel finds that the ministry’s reconsideration decision, which determined that the appellant was not eligible for full coverage in the amount of \$320 because the requested lenses do not meet the requirement of being the least expensive appropriate basic eyewear, was reasonably supported by the evidence.

The panel confirms the decision. The appellant is not successful on appeal.

**Relevant Legislation**

**Schedule C**

**Definitions**

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

- (a) for a child.....
- (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

**Optical 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 62.1 *[optical supplements]* of this regulation:

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

**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

Jane Nielsen

Signature of Chair

Date (Year/Month/Day)

2022/05/11

Print Name

Elaine Jeffery

Signature of Member

Date (Year/Month/Day)

2022/05/14

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2022/05/14