

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision of July 27, 2022, which found the request does not meet the legislative requirements as set out in Section 2(1)(f) of Schedule C of the EAPWD Regulation for medical transportation. Therefore, the ministry is unable to provide a health supplement for transportation to cover the costs of travel to [REDACTED] from May 23 to June 2, 2022, so the appellant can attend appointments with her general practitioner and specialists.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWD) Act – Section 5
Employment and Assistance for Persons with Disabilities (EAPWD) Regulation – Sections 62, and Schedule C section 2 (1) (f).

Employment and Assistance Act (EAA), Section 22(4).

Interpretation Act, Section 29

The relevant legislation is provided in the Appendix.

Part E – Summary of Facts

The evidence before the minister at reconsideration included the following:

- The appellant is not currently in receipt of assistance, the file is open as a Medical Services Only file, and the appellant lives in a rural area (Hometown),
- On May 20, 2022, she asked for help to pay for medical transportation costs to attend appointments in City 1, Alberta between May 23 and June 1, 2022. The request was for return mileage to City 2, also in Alberta, return bus fare from City 2 to City 1, parking, and accommodations. The appellant provided confirmation of the following appointments:
 - o May 26 – her general practitioner (City 1 GP)
 - o May 30 – an ENT specialist (City 1 ENT)
 - o May 31 – an Ophthalmologist (City 1 Ophthalmologist)
- On June 22, 2022, the appellant submitted her request for reconsideration and indicated she had been with Alberta doctors since 2005 as she cannot get a doctor in her local town.
- On July 25, the appellant provided her submission, describing her current health condition and indicating she has many specialists to see as there are no doctors in the four local towns in her area taking patients. She explained the reasons she travels to City 1 for medical treatment. In part she provided the following information:
 - a record of appointments with City 1 GP's office
 - an undated letter from the I Health authority in the appellant's home area confirming she has been unable to secure a family physician due to extensive waitlists.
 - a note from City 1 Ophthalmologist's office confirming the appellant attended an appointment on June 19, 2018, and a letter dated June 1, 2022, written by City 1 Ophthalmologist indicating he sees her for reasons of keeping continuity of patient care.
 - various medical notes regarding medical treatment she received in 2021,
 - record of Ultrasounds completed on in April of 2022 and Hotel invoices,
 - the appellant also indicated her trip was extended until June 3 because she attended a dental appointment in City 2 on her way home.

In the reconsideration decision the ministry provided the following information;

- On June 17, 2022, the ministry had called the Hospital in the appellant's local area regarding another request the appellant had. The hospital staff reported that

people who do not have a physician can access the emergency department or the urgent care clinic in a nearby town to see a physician. The ministry contacted City 1 GP who indicated he does not know if there are specialists available closer to the appellant as he referred to the [REDACTED] area because of her plans to move there.

Additional Information Submitted after Reconsideration

The appellant wished to submit additional documentary evidence at the hearing. The letters were shown to the panel over the video conference and the following details provided;

- A medical report of a thyroid ultrasound dated 16 February 2022 from a doctor in City 2, ordered by a family doctor GP in City 3. Both towns are in Alberta, however, are much closer to the appellant's hometown than City 1.
- A medical report of a thyroid ultrasound dated 23 April 2022 ordered by the City 1 GP and conducted in City 1, stating four small lesions of thyroid, small lesion not changed from previous 2021 reading, follow up in six months, and
- A letter dated 21 July 2022 addressed 'to whom it may concern' signed by an Obstetrics/Gynecology specialist from City 2. The letter states the appellant has been a patient since 2005 and due to COVID they were unable to see her in City 2 and she attended a doctor (City 1 GP) while she was there when her mother was ill, and as she has a daughter who lives there. The City 1 GP ordered tests and as the appellant could not be seen for follow up in City 2, she continued to see the City 1 GP, and
- A letter dated 22 June 2001 from the BC Cancer Agency to a doctor in the appellant's hometown providing information on the details of a post-hysterectomy radiation treatment the appellant received in 1996. The panel notes this letter had been provided previously and was contained in the appellant's submission at reconsideration,
- A copy of an email from a ministry supervisor dated 21 June 2022, confirming that the ministry had authorised a trip to City 1 on 19 June 2018 for the appellant to see the same ophthalmologist she visited this trip (City 1 Ophthalmologist).

At hearing the appellant addressed these additional submittals. The April 2022 thyroid report that discusses the four lesions states it is moderately suspicious and the City 1 GP referred her to an ENT specialist in City 1. The appellant feels this is an urgent requirement.

The email from the ministry supervisor was to demonstrate that she had in fact been authorised to attend a specialist in City 1. The appellant stated that the original referral was by the same optometrist that referred her in May 2022.

The appellant referred to a letter in the appeal record from a primary care social worker in her local Health Authority stating that the appellant is unable to secure a local family physician in the local area including her hometown and two other towns in the area. She has gone to local clinics in the past and people go to the bottom of the list. She went to a clinic in City 4, a local town near to the appellant's hometown and was told to dial 811 due to the doctor shortage.

The appellant referred to being told that you are allowed cross border community appointments with supervisor approvals however she has called and asked to speak to a supervisor in the past but has never been able to speak to a person.

The appellant advises she has three more specialist appointments to attend in City 1 in the upcoming months. They had been made for her by her City 1 GP when she saw him in the recent May 2022 visit.

At questioning the appellant stated it was the family doctor GP in City 3, which is a local cross border town, that does not believe in follow ups, and she had seen that GP two months ago. The GP did not think the results indicated a need for follow up.

As the appellant has made many cross-border trips to seek medical services over the last 20 to 30 years she has handled it by sometimes paying for the trips herself and sometimes with assistance from the ministry. This is because she only received PWD status a year or so before the age of 65. She would drive to the sleep apnea clinic in City 2 or get a ride, whichever was best financially.

The appellant stated she did attempt to use the urgent care facility locally to obtain referrals. Sometimes she went to emergency, and they told her to keep following up with the Alberta doctors as they have her medical records, which cannot be shared with BC. The hospital could not do much, so referred her to her usual doctor.

The appellant stated that she had gone to the ER in City 5, a local town near the appellant's hometown, in April and had been referred for an ultrasound and the test was only completed in August. The results were sent to her GP in City 3 and the appellant saw her two months ago. The GP advised her the results looks like they did before so there is no need to follow up. The ER did not have a CT and the appellant felt the City 3 GP refused to take the report seriously and follow up, while the City 1 GP took her concerns seriously

and referred her to another City 1 specialist after completing a similar thyroid ultrasound, for other tests including a CAT scan.

Ministry

The ministry relied upon the reconsideration decision. At the hearing the ministry states the denial of a transportation supplement refers to visits to the GP, ENT and Ophthalmologist in City 1. The ministry recounted the points from the reconsideration decision that demonstrates the legislation requires the GP office to be local and specialists and hospitals to be the nearest suitable and least expensive.

The ministry states the City 1 GP does not have a local office. The ministry provided examples for larger cross border locations that may normally be considered due to location and capabilities as City 4 in BC and City 2, City 3 and even City 6 (being half the distance from the appellant's hometown to City 1 in Alberta. Each situation and request is considered on a case by case basis.

The ministry states there is no evidence to show that the City 1 ENT and Ophthalmologist are the closest specialists to the appellant's hometown and the Ophthalmologist was not referred by a medical practitioner.

The ministry also states that a period of eleven days is excessive for a total of 3 medical visits.

In responses to questions the ministry denied that the testimony suggests there are limited family doctors in the area and as the appellant cannot find a doctor to refer her for further testing that trust must come into play. The ministry stated that the appellant currently has a GP in City 3, a local cross-border town, however, chooses to go to City 1. That is her choice and has worked well for her.

This appeal is not about continuity of care, rather it is about the legislative requirements that must be met for the ministry to provide a supplement. There is no evidence to say the appellant was referred to or authorised to see the City 1 GP. The ministry also notes the timing of the request was perhaps insufficient to be able to discuss it with her prior to her leaving for the City 1 appointments.

Admissibility of new information

Section 22(4) of the EAA says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under EAA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based on all admissible evidence.

In this case the appellant provided oral and written testimony providing greater detail on the travel itinerary and the appellant's understanding on cross border requirements. The ministry had no objections to the admission of the additional evidence.

The panel admits the new information under section 22(4) of the Employment and Assistance Act ("EAA") as evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Findings of Fact

The panel finds the appellant is currently seeing a family doctor GP in both City 3 and City 1 and each GP has ordered diagnostic testing in 2022.

The panel finds from the records that the appellant has visited Cities 1, 2, 3, 4, and 5 over the last year and both a sleep clinic and a cardiologist specialist in September 2021 and a dermatologist in May 2022 in City 2. Further, the City 1 ENT has ordered a CT scan closer to the appellant in City 2.

The panel finds the travel route followed by the appellant is to drive from her hometown to City 2 and stay overnight, then by bus to City 6 and change to another bus to City 1. The travel time takes two days, however on the return trip the appellant also stayed overnight in City 2 as she states she saw her root canal specialist due to pain concerning her salivary gland issue.

The panel finds the three requests for medical travel assistance forms for medical appointments for the 26th, 30th and 31st of May 2022 were all signed on the 20th May and the appellant departed her hometown on the 23rd May 2022, returning 2nd June 2022.

The panel finds that it is not disputed that City 1 GP is a medical practitioner and that the ENT and the Ophthalmologist are specialists for the purpose of considering eligibility under section 2(1)(f) for medical transportation.

Part F – Reasons for Panel Decision

The issue on appeal is the reasonableness of the ministry's decision which found the request does not meet the legislative requirements and therefore the ministry is unable to provide a health supplement for transportation to cover the costs of travel to City 1 from May 23 to June 2, 2022, so the appellant can attend appointments with her general practitioner and specialists.

In particular, was the ministry reasonable in finding that the appellant's GP in City 1 is not in the appellant's local area and that the medical specialists are not the nearest available. Further, was the ministry reasonable in finding that choosing to travel to City 1 to attend medical appointments is not the least expensive option, that the time period was excessive for three medical appointments, and therefore that the request does not meet the eligibility criteria for a medical transportation supplement for costs incurred during the period.

The relevant legislation is provided in Appendix A.

Appellant Position

The appellant argues that she was authorised for funding for a trip to see a retina consultant specialist in City 1 in 2018, and that as it is not possible to find a general practitioner in British Columbia, she has been again referred to the same specialist for continuity of care (the City 1 Ophthalmologist office).

The appellant argues a letter dated 14 September 2021, from a City 2 cardiologist, requiring an overnight stay due to severe health complications and conditions justifies why she needed to stay over extra nights before and after her appointments, and as the bus does not travel on Saturdays she was unable to return to her hometown on 1 June 2022. Further, she visited the GP on several of the days in City 1 and stopped in City 2 overnight on the way back to see a root canal specialist.

The appellant argues that the local doctor in City 3, near her hometown, does not believe in follow-ups, even for preventative reasons, and as the appellant knows her body and that something was wrong, she needed to find a doctor who believes in her. The results of tests and the actions of the City 1 GP prove that her concern is founded.

Ministry Position

The ministry argues that it is unable to provide medical transportation to see the City 1 GP, the appellant's GP, because non-local transportation can only be provided to see a specialist or attend a hospital. Also, the ministry is unable to provide medical transportation to see the specialists (City 1 ENT and Ophthalmologist) because they are not considered the nearest available specialist as both City 6 and City 2 are closer to the appellant than City 1 is.

Panel Decision

The relevant legislation is contained in the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation sections 62 and 63. Section 62 states that the minister may provide any health supplement set out in section 2 [*general health supplements*] of Schedule C to or for a continued person.

Schedule C, section 2(1)(f) states that the health supplements must be the least expensive appropriate mode of transportation to or from;

- an office, in the local area, of a medical practitioner,
- 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,
- the nearest suitable general hospital,

provided that

- The transportation is to receive a benefit under the *Medicare Protection Act*, and
- There are no resources available to the person's family unit.

Section 29 of the Interpretation Act defines a medical practitioner as a registrant of the College of Physicians and Surgeons of British Columbia entitled to practise medicine and to use the title "medical practitioner".

The panel acknowledges that the appellant reports to not being able to find a doctor in BC, has concerns over the doctors in her area, found the City 1 GP while caring for her ill mother, and that this general practitioner has been taking great care of her medical needs.

The panel notes that the appellant, although unable to secure a local family doctor due to wait lists, confirms visiting local doctors and specialists within her local and cross border area and sought a medical opinion in early April 2022 at a local hospital, where the appellant was then referred for an ultrasound. That test was conducted in August of 2022 and the appellant was not satisfied with the lack of follow up actions on the part of her local doctor. The panel finds such visits would likely meet the requirements of section 2 (1) (f) of the legislation and finds this action demonstrates the appellant's ability to avail herself of local medical services.

The panel finds the City 1 GP office is not within an area that could be considered local, being many hundreds of kilometres away from the appellant's hometown area which includes three other cities and towns with hospital and medical services. The panel notes the appellant had recent consultations with a local GP, and because she was not satisfied with the results chose to visit the City 1 GP.

The panel therefore finds the office of the medical practitioner, being in City 1, does not meet the legislative requirements of section 2 (1)(f)(i) of the EAPWD Regulation, that of being in the local area, and therefore finds the ministry was reasonable in its determination that it is unable to assist with the transportation costs to travel to see the GP in the City 1 location.

The panel notes the ministry statement that the referral to the City 1 Ophthalmologist was provided by an Optometrist in the appellant's hometown, and that she had been authorised a visit in 2018, however sees no evidence that such an authorisation was provided for 2022. The panel notes an optometrist is not a medical practitioner or a nurse practitioner within the legislative requirements of section 2 (1) (f) of schedule C of the EAPWD Regulation.

Based on the evidence, the panel finds the referrals of the appellant to the City 1 ENT and Ophthalmologist Specialists, made by the City 1 GP and by a local Optometrist, were not made by either a local medical practitioner or a local nurse practitioner as required under section 2 (f) (ii), and that no evidence has been presented to show the City 1 Specialist office is the nearest available specialist in the field of medicine or surgery. Therefore, the panel finds the ministry was reasonable in its determination that it is unable to assist with the travel and accommodation costs to travel to City 1 to see the two specialists.

The panel notes the handwritten note on a hotel invoice from City 2 for the date 1-2 June 2022 stating she had seen a root canal specialist, and a very similar note for the same hotel's invoice for 1-3 May 2022 in City 2 stating she had seen a root canal specialist on 2

May 2022. The panel notes that section 2(1)(f) of Schedule C makes no allowance for a transportation supplement for dental services.

The panel notes the appellant's comments regarding her ill-health and need to overnight when out of town, the City 2 cardiologist's letter 2021, and the reported limited bus schedule. The panel also notes that the setting of medical appointments is not always in the patient's control and finds these items collectively adequately demonstrated the need for the appellant to overnight during the out-of-town visit. Although the appellant may have stayed over an extra night in City 2 to attend a dental appointment, returning home on June 3, 2022, the ministry in reconsideration only discusses and considers the travel to 2 June 2022.

The panel finds therefore the ministry was not reasonable in its finding that the appellant would have been expected to set up appointments on consecutive days and that the cost was not the least expensive option due to the appellant staying several extra days on the trip.

However, the panel notes no evidence to demonstrate that the travel costs to City 1 are the least expensive appropriate mode of transportation, as required in section 2(1)(f) of schedule C of the legislation, when compared to local towns and cities in British Columbia or closer cities within Alberta that have been shown to possibly be able to provide the needed medical, specialist or diagnostic services. Based on all the evidence therefore the panel finds the ministry was reasonable in its determination that the travel to City 1 is not the least expensive option.

Summary

The panel has noted the appellant has chosen to visit medical practitioners that she feels she can trust with her health concerns, and this includes visiting a general practitioner's office and specialists, all in City 1. The panel has found the City 1 GP office is not within the appellant's local area. Further, the City 1 Specialists are not the nearest available, and were not referred by a local medical practitioner or nurse practitioner, and lastly the travel has not been shown to be the least expensive available option. Therefore, a travel supplement is not available under the relevant legislation.

Conclusion

Based on all available evidence the panel finds that the ministry's reconsideration decision is supported by the evidence and is a reasonable interpretation of the legislation in the circumstances of the appellant.

The ministry's reconsideration decision is confirmed.

The appellant is not successful on appeal.

Appendix A

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT

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

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.

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*.

General health 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 [*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.

INTERPRETATION ACT

Expressions defined

29 In an enactment:

"medical practitioner" means a registrant of the College of Physicians and Surgeons of British Columbia entitled under the [Health Professions Act](#) to practise medicine and to use the title "medical practitioner";

"nurse practitioner" means a person who is authorized under the bylaws of the British Columbia College of Nurses and Midwives to practise nursing as a nurse practitioner and to use the title "nurse practitioner";

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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)

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

Part H – Signatures

Print Name

Don Stedeford

Signature of Chair

Date (Year/Month/Day)

2022/12/01

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2022/12/02

Print Name

Bill Haire

Signature of Member

Date (Year/Month/Day)

2022/12/01