

Part C – Decision Under Appeal

The decision (Decision) under appeal is the Ministry of Social Development and Poverty Reduction's ("ministry") reconsideration decision dated August 25, 2023, in which the ministry found that the appellant was not eligible for a health supplement for medical transportation under the Employment and Assistance for Persons with Disabilities Regulation (the "Regulation").

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (the Act) - section 5
Employment and Assistance for Persons with Disabilities Regulation ("the Regulation") - section 62 and Schedule C sections 1 and 2

A full text of the relevant legislation is provided in the Schedule of Legislation after the Reasons in Part F below.

Part E – Summary of Facts

- The appellant has a Persons with Disabilities designation and a Medical Services Only file with the ministry.
- In July 2023, the appellant submitted to the ministry a laboratory requisition and requested a supplement to pay medical transportation to attend the laboratories (outside hospitals) for tests, ordered by her medical practitioner.
- She went to Community B to be wired up with the blood pressure monitor, but she had to return there the next day within a 24-hour period for the medical technician to unwire her and look at the data. It was decided that she had to repeat the procedure.
- The appellant had to repeat the sleep study with the Holter monitor the next day where the medical technician again looked at the data and decided whether it needed to be done again.
- The tests ordered (concerning blood pressure monitoring and a Holter monitor), involved going to different laboratories over a few days, this amounted to 3 round trips from the appellant's home, or about 120 kms.
- The appellant's request for a supplement to pay for medical transportation was denied. The reason provided was because it was to attend an appointment with a prosthetist and not with a medical practitioner, specialist or in a hospital.

Information Provided After the Decision

Notice of Appeal

In the Notice of Appeal, the appellant noted that she had to pay for transportation for the blood pressure monitor testing and to get a Holter monitor. She was confused by the original decision denying medical transportation based on her attending the office of a prosthetist; the decision did not relate to the medical travel to her medical lab technicians, i.e., the subject matter of her requisition.

At the hearing, the appellant again expressed her confusion regarding the reference to attend an appointment with a prosthetist in the reconsideration decision. She stated she submitted a request to the ministry for transportation to a laboratory regarding blood pressure monitoring and a Holter monitor. The appellant also stated although she had a

standing requisition with the ministry for orthotics, her application for the transportation supplement was not to visit a prosthetist.

At the hearing, the ministry could not explain why the Decision referred to a visit to a prosthetist, when the appellant's requisition for blood pressure monitoring and a Holter monitor was the subject of her request for medical transportation coverage. The ministry also added that the appellant possibly could use public transit or Handy Dart to get to such appointments.

As well, the ministry stated that a medical technician is not registered as a specialist and a prosthetist is registered with a different governing body than a medical practitioner.

Admissibility of New Evidence

Section 22(4) of the Employment and Assistance Act says a panel can consider evidence that is not part of the record when the Ministry made its decision. But first the panel must decide if the new information is relevant to the decision.

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 reasonably concluded that the appellant was not eligible for a health supplement for medical transportation under the Regulation. Was the ministry's Decision that the request for transportation does not meet the legislative criteria in section 2 of Schedule C reasonably supported by the evidence or a reasonable application of the legislation?

Ministry Position

The ministry's position is that it "operates under legislation" and that the medical transportation is not covered for laboratory tests or attending the office of a prosthetist, under the requirements of section 2 of Schedule C of the Regulation. Specifically, the Regulation 2(1)(f)(i) to (iii) authorizes the ministry to provide a supplement for medical transportation for the following reasons:

- to attend an office, in the local area, of a medical practitioner or nurse practitioner, or
- to attend the office of the nearest available specialist in a field of medicine or surgery, or
- to attend the nearest suitable general hospital or rehabilitation hospital.

The ministry's position is that the appellant's request for a supplement for medical transportation cannot be approved, because she did not get her prosthetist consultation or lab tests performed at:

- an office of a medical practitioner or nurse practitioner,
- the office of the nearest available specialist in a field of medicine or surgery,
- the nearest suitable general hospital or rehabilitation hospital.

As a result, the ministry must deny the appellant's request.

Appellant's Position

The appellant's position is that the mileage to have the blood pressure monitoring and a Holter monitor laboratory test, should be covered [by the ministry] because:

- The laboratory requisition was not looked at, and the ministry denied her request on the basis that her appointment was with a prosthetist, and not a medical practitioner.
- A medical lab technician is as much a medical practitioner as a nurse practitioner.
- The appellant has an overdue, long-standing request with the ministry for a prosthetist supplier, to supply new supports, and it was this request which seems to be the basis of the ministry's determination of this medical transportation request.
- She had no choice of what location or of where to go for her medical tests by a "specialist medical technician", and in a severe health matter situation, the transportation costs should be covered.
- To deny transportation costs to a patient based on the ministry's criteria, and when the specialists ordering these tests choose when, where, and how to have them done, is just further downloading on a patient who is ill.

Panel Decision

The panel finds that the ministry reasonably concluded the appellant is not eligible for a medical transportation supplement under subsections 2(1)(f)(i) to (iv) of Schedule C of the Regulation.

Although the appellant refers to a laboratory technician as, a "specialist medical technician", the panel finds the prosthetic supplier and the medical laboratory technicians are not "specialists" in accordance with section 2(1)(f)(ii) of Schedule C, in the Regulation. Schedule C defines "specialist" as 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.

In addition, at the hearing the ministry stated that a medical technician is not registered as a specialist and a prosthetist is registered with a different governing body than a medical practitioner.

Furthermore, even though the appellant argued that a medical lab technician is as much a medical practitioner as a nurse practitioner, the panel finds there is insufficient evidence to demonstrate that a prosthetist and medical laboratory technicians are considered medical practitioners or nurse practitioners, as required under section 2(1)(f)(i) of Schedule C in the Regulation. Under subsection 2(1)(f)(i), the minister only has the discretion to provide transportation to the office of a medical practitioner or nurse practitioner, who is registered as such.

The panel finds that the ministry reasonably determined that the prosthetist and the medical lab technicians are not medical practitioners, nurse practitioners or specialists; neither can the laboratory or prosthetist's office be considered a hospital as required under subsections 2(1)(f)(iii) and (iv) of Schedule C in the Regulation.

As there was no evidence or arguments regarding Schedule C subsections 2(1)(f)(v) and (vi), the panel considered this legislation not part of the appeal.

Conclusion

The panel confirms the Decision is reasonably supported by the evidence. The appellant is not successful on appeal.

SCHEDULE OF LEGISLATION

Pursuant to the 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.

Pursuant to the Regulation:

General health supplements

62 (1) Subject to subsections 1.1 and 1.2, 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,

Schedule C

Health Supplements

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.

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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

Bill Farr

Signature of Chair

Date (Year/Month/Day)

2023/10/05

Print Name

Connie Simonsen

Signature of Member

Date (Year/Month/Day)

2023/10/05

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2023/10/06