

**Part C – Decision Under Appeal**

The decision under appeal is the the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (“the Ministry”) dated February 21, 2024. The Ministry found that according to the Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”), the Appellant was not eligible for a health supplement for an additional five cents per kilometre for gas for medical transportation.

**Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Act*, Section 5  
*Employment and Assistance Act*, Section 22 (4)  
Employment and Assistance for Persons with Disabilities Regulation, Section 62  
, Schedule C, Section 2

The full wording of this legislation is set out in the Schedule of Legislation at the end of this decision.

**Part E – Summary of Facts**

The hearing was held by written submissions on March 28, 2024.

The information before the Ministry at the time of the Reconsideration included:

*Ministry Records*

- On November 16, 2023, the Ministry provided the Appellant with a health supplement for transportation; the total amount issued was 1986.4 km x 36 cents = \$715.10. The Ministry also provided \$120 for his food and \$168 for his escort's food; and
- On November 17, 2023, the Ministry provided the Appellant an additional \$48 for food.

*Appellant's Feb. 6, 2024 Letter*

With his request for reconsideration, the Appellant submitted a two-page typed letter and said:

- The full amount that the legislation allows, in addition to what he was already issued is a total of \$300.82;
- This is the sum of three amounts, one of which is the shortage of the exceptional mileage rate difference, which amounts to \$99.32 for additional fuel allowance based on the mileage the Ministry permitted;
- He was forced to borrow from his friends during the initial week of the trip; he paid \$250 for diesel fuel for each of the four legs of the trip that were driven in his truck; the total cost was just a little over \$1000;
- He had additional food costs;
- Total parking fees at the airport were \$33.50; and
- He requests \$168 for additional meals funding as he was unable to get home until November 26<sup>th</sup>.

**Additional Information submitted after Reconsideration**

With his Notice of Appeal—Reasons, the Appellant provided a two-page typed document that notes:

- He is visually impaired in both eyes—low vision in one eye and blind in the other eye—and he is scheduled for another out of town surgery consultation;
- He lives far out of town and is unable to drive;
- From the Natural Resources website, fuel comparison tables show his vehicle uses approximately 30% more fuel than others like his;
- His vehicle uses diesel fuel which is 12%-15% more expensive than gasoline; and
- He is requesting the exceptional travel rate (+\$.05/km) for his total travel already approved; the difference owing is \$99.32.

**Admissibility of New Evidence**

The Ministry did not object to the admissibility of the Appellant's additional evidence.

The Panel admitted this information as new evidence; it provided further clarification about the reasons for the Appellant's additional travel funding request. As such, it was determined to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*.

**Part F – Reasons for Panel Decision**

The issue on appeal is whether per the Regulation, the Ministry's Reconsideration Decision denying the Appellant a health supplement for an additional five cents per kilometre for gas for medical transportation costs, was reasonable. In the case of the Appellant, was the Ministry's decision to deny the additional five cents per kilometre reasonably supported by the evidence or a reasonable application of the legislation.

The Panel notes that with his request for Reconsideration, the Appellant sought an additional supplement for added costs (ie. food and parking), of which the Ministry did reimburse after Reconsideration. With his appeal, the Appellant also submitted evidence and argument regarding the added food and parking costs. As they were no longer an issue at appeal, the Panel limits its analysis and decision to the matter of whether the Ministry's decision to deny the additional five cents per kilometre was reasonably supported by the evidence or was a reasonable application of the legislation.

**SUBMISSIONS****Position of the Appellant**

The Appellant argues that he should be given the additional five cents per kilometre for travel mileage because the vehicle he used for transportation is more expensive to operate than the usual vehicles. He points to Natural Resources Canada information that indicates his vehicle uses approximately 30% more fuel than others like his, and the cost of diesel, which is required by his vehicle, is 12-15% more expensive than gas. The Appellant argues he should be provided the additional mileage amount because he received it previously given his exceptional travel circumstances. Finally, he notes the difference owing totals \$99.32.

**Position of the Ministry**

The Ministry relied on the reasons provided in its Reconsideration Decision. The Ministry said that although the Appellant's request for transportation to attend appointments met the criteria set out in Schedule C Section 2(1)(f) of the Regulation, the Regulation or Schedule do not specify the amount to issue for a health supplement for transportation. The Ministry said it relies on a policy rate table to determine the amount provided and in this rate table; the rate for gas is 36 cents per kilometre. The Ministry also noted that in exceptional circumstances, they may provide additional money for gas, but the Ministry would need to be satisfied that the Appellant's gas costs exceeded the 36 cents per kilometre amount.

The Ministry says they provided the Appellant \$715.10 for gas money for a total of three trips. However, the Ministry says they are uncertain why the Appellant was issued gas money for three trips when his medical appointment was one trip and state that the Appellant was provided gas money for two additional trips. Although the Appellant indicates that he requires extra funds due to extraordinary circumstances such as the age of his vehicle and its gas consumption, and that he spent \$1000 on fuel, the Ministry notes that the Appellant has not provided any information to verify that his fuel costs exceeded the \$715.10 provided. Therefore, the Ministry is not satisfied the Appellant's gas costs were more than the \$715.10 provided and finds that his request for an additional five cents per kilometre is not the least expensive most appropriate mode of transportation. Accordingly, the Ministry denies the Appellant's request for an additional five cents per kilometre.

### **Analysis**

The Ministry may fund medical transportation if the request meets the requirements set out in subsections 2(1)(f)(i) to 2(1)(f)(iv) of Schedule C of the Regulation as well as other provisions under section 2(1) that are not at issue in this appeal. For example, the Ministry was satisfied that the appellant did not have resources available to cover the cost of the transportation.

The Ministry determined that the Appellant's request for a health supplement for medical transportation met the requirements in the Regulation. Once it was established that the requirements had been met, the Regulation then sets out that the Ministry may fund medical transportation. This is not a case where the Ministry declined to fund medical related transportation costs. The Appellant's medical transportation was funded by the Ministry. The Appellant submitted a mileage claim for 1986 kms and received \$715.10 to cover his related fuel costs. The Regulation does not set out the amount that is to be paid for mileage costs, only that it is to be provided. The Ministry states that it paid the Appellant the standard mileage it usually provides for transportation costs for each kilometre claimed by the Appellant. The Panel finds that there is no provision in the Regulation that requires the Ministry to consider a vehicle's age or fuel type, nor due to age or fuel type, a requirement to pay an additional five cents per kilometre. Although the Appellant disagrees with the amount provided to him for gas costs, he did ultimately receive funds which was consistent with the Regulation. For these reasons, the Panel finds the Ministry was reasonable in determining that the Appellant was not entitled to receive an additional five cents per kilometre for mileage.

### **Conclusion**

The Panel finds that the Ministry was reasonable when it determined that the Appellant was not eligible for an additional five cents per kilometre for fuel costs related to medical transportation expenses. The Ministry's reconsideration decision is confirmed, and the Appellant is not successful with his appeal.

## Relevant Legislation

### 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 ACT

#### Panels of the tribunal to conduct appeals

**22 (4)** A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

### 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 a dependent child, 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

#### 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

Carmen Pickering

Signature of Chair

Date (Year/Month/Day)

2024/04/02

Print Name

Kevin Ash

Signature of Member

Date (Year/Month/Day)

2024/04/01

Print Name

Robert Kelly

Signature of Member

Date (Year

2024/04/02