

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the “**Ministry**”), dated March 7, 2024 (the “**Reconsideration Decision**”), in which the Ministry determined that the Appellant was denied coverage of glasses above the rates set out in the Schedule of Fee Allowances (the “**Health Supplement**”).

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation, section 62.1 and 62.2
Schedule C, sections 1, 2.1, and 2.2 Schedule of Fee Allowances – Optometrist

Note: The full text of the applicable legislation is available at the end of this decision.

Part E – Summary of Facts

The Appellant's hearing was held in person on April 24, 2024.

The Reconsideration Decision

The evidence before the Ministry at the Reconsideration Decision consisted of:

- On January 15, 2024, Pacific Blue Cross (PBC) pre-authorized coverage for bi-focal glasses as follows:
 - Frames and bifocal lenses.
 - Claimed amount: \$449.98.
 - PBC approved amount: \$170.00.
 - Lens add-on, prisms bi-focal.
 - Claimed amount: \$20.00.
 - PBC approved amount: \$4.00 (doubled by ministry to \$8.00).
 - Lens add-on, cylinder bi-focal.
 - Claimed amount \$20.00
 - PBC approved amount \$4.90 (doubled by ministry to \$9.80)
- On January 23, 2024, the Ministry received the following:
 - Letter from optometrist office giving the Appellant's glasses prescription as requested by the Appellant.
 - Prescription from the Appellant's doctor(1)
 - Indicates prescription.
 - Recommends: "SVD and intermediate/near pairs" / "Photo gray and/or clip on."
- On January 25, 2024, the Ministry reviewed the Appellant's submission and noted the following:
 - Confirmed Appellant's MSP and ext. health coverage was active.
 - Confirmed the PBC claims history was for \$449.98, and that the amount approved was \$170, up to the maximum of the Fee Schedule of Allowances.
 - The Ministry is not able to reimburse, pay or authorize payment for services that are not set out in, or in excess of Schedule of Fee allowances.
 - Clients have the responsibility to confirm coverage and the level of coverage

available to them before services are received.

- On January 29, 2024, the Appellant contacted the Ministry, and she was notified the Ministry had denied her request for funding in excess of the fee schedule. The Appellant requested reconsideration.
- On February 22, 2024, the Ministry received the Appellant's request for reconsideration. The Appellant provided the following:
 - Handwritten statement, section 3 where the Appellant states:
 - Two pairs of glasses are required as she has double vision, prism lenses which create depth perception when more than the long-distance prescription is required.
 - Having one pair for all affects her quality of life significantly. She has forty stairs to navigate up and down in her home. Having all prescriptions in one pair of glasses creates a fall hazard.
 - She is a single senior, low income, disabled woman and does not have the financial resources to pay for the glasses.
 - The Ministry allowance needs to be increased.
 - A letter from doctor(2) dated February 15, 2024 states:
 - The Appellant requires two pairs of glasses due to an intolerance to full progressives. This requirement is due to the Appellant's persistent post-brain injury visual symptoms which have left her with photosensitivity, double vision and intolerance to peripheral swim (such is the case in progressive lenses).
 - Please note prescription given January 9, 2024, recommending single vision distance and intermediate/near progressives or bifocal fit over and/or photochromic.
 - Please note doctor (3)'s February 21, 2023, prescription that requires prism with FL-41 lens tint or photochromic lenses for photosensitivity. The appropriate prism is required to maintain single vision and improve depth perception, both of which are imperative to appropriately completing basic activities of daily life.
 - Prescription #1 from doctor (3) dated February 21, 2023.
 - Indicates prescription.
 - Notes- computer.

- Prescription #2 from doctor (3) dated February 21, 2023.
 - Indicates prescription.
 - Notes- progressive + FL41 tint (30%).
- On March 7, 2024, the Ministry denied the Appellant's request for coverage of glasses above the rates set out in the Schedule of Fee Allowances. However, the Appellant is still eligible for coverage of bifocal glasses up to the ministry rates, or single-vision distance glasses in addition to single-vision reading glasses.
- On January 25, 2024, the Ministry sent the Appellant a letter denying her request for replacement custom foot orthotics and approving the request for orthopaedic footwear. The reason given for the denial was:
 - The 3-year replacement period for custom foot orthotics has not yet passed.
 - The Ministry also noted in their decision that:
 - If the Appellant's custom foot orthotics are damaged and can be repaired, she should contact the Ministry;
 - If custom foot orthotics are required due to a change in the Appellant's medical condition or growth since the last pair were issued in November 2021, she should provide verification from a medical or nurse practitioner;
 - The Appellant may be eligible for custom foot orthotics in November 2024 once the 3-year replacement period has elapsed.

The Appeal

On March 21, 2024, the Appellant filed a Notice of Appeal in which the Appellant stated:

- As a result of cataract surgery, she now has double vision and multiple concussions.
- She requires two separate pairs of glasses as bifocals do not work.
- The eye specialist recommends colouration on her glasses.
- She is low income, and each pair of glasses is \$495.00.
- Her quality of life is affected severely.

The Hearing

At the hearing the Appellant presented evidence which included:

- A copy of Table 1: Schedule of Fee Allowances – Optical -Opticians
- Ophthalmology report dated January 11, 2018, which notes:
 - Subject Complaint: Acetylcholine receptor absent, closes eye often to help with diplopia.
 - Assessment and Plan: non-specific decompensation of phoria, 1 year with orthoptics.
- A letter from Appellant's ophthalmologist to another dated May 24, 2017, noting the Appellant's vision needs after her cataract surgery.
- A list of monthly expenses and income. Expenses totaling \$3,326.40 and income totaling \$2,138.53 showing a negative balance of \$1,187.87.
- Vision and Rehabilitation receipt dated March 15, 2023, showing a total of \$280.00.
- An eye wear estimate for two pairs of glasses dated April 18, 2024, totaling \$587.96.
- A resume by the Appellant noting past professional affiliations, awards and acknowledgements, and community and political involvements.

At the hearing the Appellant stated:

- Due to eye surgery, she now has double vision and requires two pairs of glasses. (Reference made to documents shared, Doctor's letter.)
- The Ministry in the past funded glasses up to \$500.00 but now only fund up to \$170.00.
- She is not able to afford the purchase of the required glasses. (Reference made to monthly budget and income).
- She believes her situation is special and requests that compassion should be shown to grant the required funds of \$417 not just \$170 as offered in the fees schedule.

At the hearing the Ministry representative stated:

- The Appellant is eligible for coverage of bifocal glasses or single-vision distance glasses in addition to single-vision reading glasses but that the Ministry is bound by legislation to only fund requests based on the Schedule of Fee Allowances.

New Evidence

New evidence was offered by the Appellant at the appeal hearing in written format, the Ministry did not object to the submission of this evidence. The panel finds that the Appellant's evidence summarized her request for reconsideration and clarified the hardship of minimal funding offered by the Ministry. The panel finds this evidence was reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Accordingly, the panel admits all the new information as evidence pursuant to section 22(4) of the *Employment and Assistance Act*.

Part F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Reconsideration Decision in which the Ministry determined that the Appellant was not eligible for coverage of glasses above the rates set out in the Schedule of Fee Allowances.

Appellant's Position

The Appellant argues that because of her financial situation and medical need, the Ministry should increase the amount of funding that is required to purchase her eye wear.

Ministry's Position

The Ministry maintains that the Appellant is not eligible for coverage of glasses above the rates set out in the Schedule of Fee Allowances.

Panel Decision

Pursuant to Section 62.1 of the Regulation, the Minister may provide an optical supplement as set out in section 2.1 of Schedule C for (a) basic eyewear and repairs; and (b) pre-authorized eyewear and repairs. The Ministry recognises the Appellant is eligible to receive an optical supplement but states that the Appellant is not eligible for coverage of glasses above the rates set out in the Schedule of Fee Allowances.

Request for Fee above Fee Allowance Rate

The Appellant acknowledges she has requested funding in excess of the fee schedule but hopes the Ministry and the Panel will consider her request on its own merits.

On review of the Appeal Record, the Panel finds that the Ministry relies on policy found in the Optical Fee schedule which determines the maximum amount the Ministry will pay for services. The Ministry states it is not able to reimburse, pay or authorize payment for services that are not set out in, or in excess of the Schedule of Fee Allowances. The Panel makes no comment on the Ministry policy but notes it's decision must be based on the legislation.

Legislation

Section 1 of Schedule C states "**basic eyewear and repairs**" means any of the following items that are provided by an optometrist, ophthalmologist or optician:

(a) for a child who has a new prescription, one pair of eyeglasses per year consisting of the least expensive appropriate

- (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 eyeglasses or lenses, and
- (iii) necessary repairs to lenses or frames that come within this definition.

As the legislation states basic eyewear and repairs must consist of the least expensive appropriate eyewear it would be a requirement of the Appellant to demonstrate she has found the least expensive appropriate eyewear. As the Appellant submitted only one quote for eyewear the Panel finds that it was reasonable for the Ministry to conclude that the Appellant was not eligible for coverage of glasses at the rate she submitted.

Conclusion

The Panel is sympathetic with the circumstances of the Appellant.

The Panel finds that the Ministry's decision determining that the Appellant was ineligible for coverage of glasses, as requested, as the evidence did not illustrate the eyewear was the least expensive, was a reasonable application of the applicable legislation in the circumstances.

The Appellant is not successful on appeal.

Legislation

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4; am. B.C. Reg. 161/2017, App. 2, s. 2.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

Schedule C

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.

Schedule C

Section 1

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

(a) for a child who has a new prescription, one pair of eye glasses per year consisting of the least expensive appropriate

- (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;

"change in refractive status" means a change of not less than 0.5 dioptres to the spherical or cylinder lens, or a change in axis that equals or exceeds

- (a) 20 degrees for a cylinder lens of 0.5 dioptres or less,
- (b) 10 degrees for a cylinder lens of more than 0.5 dioptres but not more than 1.0 dioptre, and
- (c) 3 degrees for a cylinder lens of more than 1.0 dioptre;

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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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2024/05/07

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2024/05/07

Print Name

Ken Smith

Signature of Member

Date (Year/Month/Day)

2024/05/07