

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 April 23, 2024 (the “**Reconsideration Decision**”), in which the Ministry determined that the Appellant was denied a health supplement for transportation coverage (the “**Health Supplement**”).

- The Ministry determined the Appellant did not meet the legislated criteria set out in Schedule C Section 2 (1)(f) of the Employment and Assistance for Persons with Disabilities Regulation, as the appointment request was outside of the Appellant’s local area, that the appointment was with a General Practitioner (GP), not a specialist, and the appointments were not at the nearest hospital, rehabilitation hospital, or an outpatient service provided under the Hospital Insurance Act.

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.

Schedule C, sections 1, 2 (1)(f)

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 via telephone on May 22, 2024.

The Reconsideration Decision

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

- The Appellant is a recipient of disability assistance.
- On March 13, 2024, the Appellant requested medical transportation:
 - For appointments In Surrey, BC., with the Appellant's GP, On April 2 and 4, 2024.
 - The Appellant requested to use her vehicle departing March 30, 2024, and returning April 6, 2024, and advised that she did not require overnight accommodation.
- On March 22, 2024, the Ministry denied the Appellant's request as the appointments were not with a registered specialist.
- On April 10, 2024, the Appellant provided the Ministry with a Request for Reconsideration where she explained:
 - It is stressful to change doctors due to the medication she is taking and the stress of changing medications that the new doctor wants her to try.
 - The last time she changed doctors the process took almost two years.

The Appeal

On April 30, 2024, the Appellant filed a Notice of Appeal in which the Appellant stated:

- She knows two people who have doctors locally and it takes one month to see their doctor.
- Even if she wanted to see the doctor more often, for something more serious, she would be told to go to emergency.
- The doctors do not know her.
- Her condition is worse in the winter, but she does not travel the passes in the winter, as her condition was still bad in April 2024, it would have been perfect for her doctor (in Surrey) to actually see her foot.

The Hearing

At the hearing the Appellant stated:

- She understands the Ministry decision as they must follow the rules and regulations.

- People she talked to at the Ministry office told her to apply for transportation assistance.
- She does not have a local doctor and only needs to travel to see her doctor in Surrey once a year. Her other appointments with this doctor are completed by telephone.
- Even if she had a local doctor, the wait list is too long. A friend phoned for an appointment, and they were not able to see the doctor for months.
- She is on a list for securing a local doctor but has not heard anything.

At the hearing the Ministry representative stated:

- The Ministry's Medical Transportation Team determines if a client's transportation request is accepted or denied. Staff who answer telephone enquiries at the Ministry do not know if a transportation request will be approved.
- When considering a transportation assistance request, the Ministry considers the least expensive mode of transportation.
- Where the Appellant lives, there are numerous local communities with doctors that the Appellant should attempt to secure.
- The Appellant should provide evidence through documentation such as letters, or emails to show she has tried to secure a doctor in her local area. If the Appellant must travel out of her local area to secure a doctor, the Medical Transportation Team can consider transportation assistance.

Evidence

The panel finds that the Appellant's evidence summarized her Request for Reconsideration but that there was no new evidence shared. The Ministry representative summarized the Reconsideration Decision but did not offer any new evidence to be considered by the panel.

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 a health supplement for transportation under the Regulation.

Appellant's Position

The Appellant argues that she wants to continue to see her doctor in Surrey as he is aware of her needs, and she does not currently have a local doctor.

Ministry's Position

The Ministry maintains that the Appellant is not eligible for transportation assistance as her appointments with a GP for April 2 and 4, 2024, were:

- Not considered local in terms of where she resides.
- The appointments were with a GP, not a specialist.
- The appointments were not at the nearest hospital, rehabilitation hospital, or an outpatient service provided under the Hospital Insurance Act.

Panel Decision

Pursuant to Section 62 of the Regulation, the Minister may provide any health supplement set out in section 2 [general health supplements] of Schedule C to or for a family unit in receipt of disability assistance. The applicable criteria for the request of the transportation supplement are set out in section 2(1)(f) of Schedule C and notes the supplement will be 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, ..., 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, or an outpatient service under the Hospital Insurance Act.

(i) An office in the local area.

The Appellant acknowledges she has requested transportation funding outside of her local area as she does not have a local doctor. Although the Appellant stated she was on a list to secure a local doctor, the Appellant did not present evidence that she had attempted to secure a doctor in the surrounding areas of her residence. The Appellant in her written statements and oral presentation explained she would rather keep her current doctor and not secure a new one in the surrounding area. Reasons for not changing

doctors included obtaining a new doctor closer to her residence will make it difficult for her as a new doctor will not know what medications she requires, a new doctor doesn't know her and she wants consistent care, and the local doctors take too long to see. As the Appellant has not attempted to secure a doctor in an area close to her residence, the panel finds that it was reasonable for the Ministry to conclude that the Appellant did not meet the criteria of Schedule C section 2(1)(f)(i), "an office, in the local area, of a medical practitioner or nurse practitioner."

(ii) The office of a specialist

Schedule C definitions 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 BC. As the appointments made by the Appellant were made with a GP and not a specialist as defined above, the panel finds that it was reasonable for the Ministry to conclude the Appellant did not meet the criteria of Schedule C section 2(1)(f)(ii), "the office of the nearest available specialist."

(iii) The nearest suitable hospital, rehabilitation hospital, or an outpatient

As the Appellant's request for assistance was to attend a doctor's appointment at a GP's office, the panel finds it was reasonable for the Ministry to conclude the Appellant did not meet the criteria of Schedule C section 2(1)(f) (iii-v), "suitable hospital, rehabilitation hospital, or an outpatient."

Conclusion

The Panel finds that the Ministry's Reconsideration Decision determining that the Appellant was ineligible for a supplement for transportation to attend an appointment outside her local area, was a reasonable application of the applicable legislation in the circumstances.

The Appellant is not successful on appeal.

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 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

Section 1 Health Supplements

Definitions

"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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2024/05/28

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2024/05/28

Print Name

Melissa McLean

Signature of Member

Date (Year/Month/Day)

2024/05/28