

Part C – Decision Under Appeal

The Appellant appealed the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction (the “Ministry”) dated June 20, 2024, denying a health supplement for transportation to Edmonton from May 20 to May 27, 2024 for the Appellant’s child (the “child”) to attend appointments with a pediatrician, physical therapist, dietitian, and occupational therapist.

Part D – Relevant Legislation

This decision cites:

Employment and Assistance for Persons with Disabilities Act:

Section 5

Employment and Assistance for Persons with Disabilities Regulation (the “Regulation”):

Sections 61.01, 60.1, 62, and 69

Schedule C: Section 1 -Definition of “specialist”, and section 2(1)(f)

Hospital Insurance Act

Section 1 – Definition of “hospital”

Hospital Insurance Act Regulations

Section 1 – Definitions of “general hospital” and “rehabilitation hospital”

Hospital Act

Section 1 – Definition of “hospital”

Interpretation Act

Section 29 – Definition of “medical practitioner” and “nurse practitioner”.

Text of the above legislation is attached at the end of the decision.

Part E – Summary of Facts**Hearing Proceeding**

The hearing was by telephone.

Background and Relevant Information

The following is a summary of the key dates and information for this Appeal as stated in the Reconsideration Decision or hearing testimony:

The Appellant formerly lived in Alberta.

The Appellant is a sole recipient of disability assistance in BC with four dependent children.

2019: Child began care at BC Children's Hospital.

2022-September: Moved to Alberta with approved Ministry funding and extension of MSP coverage before lapse. The Appellant's stated purpose was to relocate for a time for "coordinated medical care [of the child that the Appellant] had not been able to find in BC".

2022-October: Child's care "transferred to Alberta".

2023-December: Appellant returned to BC (after over a year away) after being notified by the Ministry that return to BC was required to maintain status and benefits. No move back funding was provided by the Ministry.

2024-January: Approved for Non-Local Medical Transportation Assistance to go to Edmonton in February.

2024-Early in year: Denied Non-Local Medical Transportation Assistance to go to Edmonton in March or April.

2024-May-06: The Appellant submitted a Request for Non-Local Medical Transportation Assistance to go to Edmonton in May 2024 . It indicated, among other things, the following:

- The Appellant sought a medical transportation supplement for medical appointments on May 22 through 24. The appointments were with:
 - An Edmonton pediatrician (the "AB Pediatrician").
 - 2024-May-23 with "Edmonton Rehabilitation".
 - 2024-May-24 with "Rehabilitation Glenrose".
- The Specialist / Hospital / Speciality Clinics the Appellant will be attending are Glenrose / Stollery / Garneau Pediatrics.
- The Appellant's "Referring Medical/Nurse Practitioner" was the *AB Pediatrician*.
- No medical escort was required.

- The Appellant will be departing for the appointments from the Appellant's BC location on May 20, 2024, and returning on May 27, 2024.
- The Appellant was not able to contribute to the cost of the medical transportation, but had considered the option of asking family, friends and volunteer agencies for assistance.
- The Appellant required overnight accommodation for the travel but had not yet booked accommodation arrangements.
- The Appellant required arrangements for wheelchair accessibility.
- The Appellant would be travelling by personal vehicle.

2024-May-14: The Appellant submitted the following documents:

- An Assessment from a BC Physician (the "*BC Physician*"). It indicated the following:
 - The *BC Physician* is a family physician who assessed the Appellant's child with the Appellant present.
 - The child:

... has a complex medical history, including brain injury secondary to near-SIDS, Cerebral Palsy, cortical vision impairment, hip dysplasia (awaiting surgery), G-Tube, and global developmental delay (non-verbal).

The services that [the child] needs to maintain a stable medical condition are not available to [the child's] family in British Columbia and as a result she needs to travel to Edmonton regularly to receive care from [the child's] regular medical team. This care is delivered at the Garneau Medical Clinic, the Stollery Children's Hospital, and the Glenrose Rehabilitation Centre in Edmonton. These teams of medical professionals are very familiar with [the child's] complex medical needs and have been providing ongoing care for the last 2 years.

- A screenshot of an email reminder of a May 24, 2024 (1pm) appointment for the child's Wheelchair Seating Assessment and measurement at an Edmonton clinic.
- A screenshot of an email confirming an appointment with the *AB Pediatrician*.
- A screenshot from the Alberta Health Services MyHealth Records application showing appointments as follows:
 - 2024-May-23 (10am): Multidisciplinary appointment at Glenrose Rehabilitation Hospital
 - 2024-May-23 (1pm): Multidisciplinary appointment at Stollery Children's Hospital Pediatric Home Nutrition Support Program.
 - 2024-May-24 (1pm): Community Visit appointment at Glenrose Rehabilitation Hospital Seating Service.

- 2024-May-29: Virtual Initial appointment with Glenrose Rehabilitation Hospital I CAN Centre for Assistive Technology.
- 2024-June-21 (2:30pm): Assessment at Glenrose Rehabilitation Hospital I CAN Centre for Assistive Technology.
- A Service Inquiry at Little Buddies Pediatric Therapy advising that there is currently an approximate wait of 5-6 months for their British Columbia clinic, depending on the Appellant's availability.

2024-May-16: The Appellant submitted two Consultation Summaries from a 'telehealth' provider as follows:

- 2024-April-27: A Consultation Summary from the *BC Physician* with a "To Whom It May Concern" memorandum containing the same details as shown on the assessment previously submitted on May 14, 2024 (the "*BC Physicians' Memo*").
- 2024-May-06: A Consultation Summary from a BC Nurse Practitioner. The notes state that this was a first appointment with the child, and there was no access to the child's medical treatment plan or specialists' chart. The record states:

client requests "Needing a medical note for the government to cover my daughters travel expenses to access her medical team in Alberta" notes specific requirements for letter that daughter cannot access care in BC and requires BC MSP coverage of services in Alberta.

... [The Appellant] reports ... comprehensive care team in Alberta unmatched by BC.

...reports conflict with senior medical director of BC Children's Hospital; disagreement surrounding not following careplan and suggestions of Alberta care team.

... [the Appellant] found Toronto doctor [for second opinion from] ...BC Children's Hospital team [who] did not want to work with this doctor or change treatment plan.

- [The Appellant] does not feel BC Children's medical services was taking proper care of client.

Plan:

- Request currently outside my scope as I am limited in my access to health documents. ...

2024-May-17:

- The Appellant submitted a printout of car rental information from the Appellant's region.
- The Ministry recorded calling the office of the *BC Physician* to discuss the Appellant's request and was told that the child only had one appointment.
- The Ministry determined that the Appellant was ineligible for the requested health supplement for transportation to Edmonton.

2024-May-23, 2024: The Appellant submitted a Request for Reconsideration and requested an extension to allow more time to gather supporting information.

2024-June-20: The Reconsideration Decision of the Ministry that decided that the Appellant was ineligible for the Local Medical Transportation Assistance for transportation to Edmonton on May 20 with return on May 27, 2024.

2024-August-07: The Appellant filed an appeal with this Tribunal. No "Reasons for Appeal" were stated.

Appellant Submissions

At the hearing the Appellant reviewed the child's health and described that it was "compromised through BC Children's Hospital or neglectful pediatric care and failed follow-up, being misdiagnosed and over sedated to the point of having a cardiac arrest. After seeking a second opinion in Toronto the recommendations were not supported at the BC Children's Hospital "and they did not want to be held accountable."

The child has received appropriate care in Alberta "and her health has done a 360." The child just had a major surgery there and the Appellant was calling in from Edmonton.

The Appellant described the following:

- Talking to senior people in government who describe the Appellant as setting precedent and providing encouragement.
- Receiving Ministry funding to move to Alberta with an extension granted for health coverage beyond the normal cut-off.
- Being in Alberta for just over a year and then receiving a notice that assistance would be cut-off unless moved back to BC by December 31st.
- Moving back to BC "just before Christmas" with nothing but a few clothes because no assistance was given.
- Not having a doctor in BC.
- Losing the Appellant's vehicle.
- Received Non-Local Medical Transportation Assistance to return to Edmonton for care in February.

- Applying for Non-Local Medical Transportation Assistance for a trip in March or April but that was denied, and this one for May was also denied. Both are being appealed.
- Having received legal advice supporting being subjected to wrongdoing.
- That the denial is a “total breach of human rights, and it has to stop.”

The Appellant responded to questions and further described the following:

- The child received care at BC Children’s Hospital and from a community pediatrician from about 3 weeks of age in 2019 though to October 2022 when care was transferred to Alberta.
- The Appellant has a pending court case and “lawyer for that” related to the BC Children's Hospital.
- It has been “very challenging” to find a pediatrician. “Nobody wants to take [the child] on as a patient” because:
 - “there’s the legalities”;
 - “all the doctors talk”;
 - “their patient load is so high”; and
 - “working with children like [the child] leads to burned out”.
- There is about a 6-12 months or more waitlist, including for physiotherapist, occupational therapists, speech therapy.
- BC doesn’t have a specialized complex care facility to support children like the child.
- The child is “thriving now” but the Appellant doesn’t know what to do to fill the “void” because the appropriate care “is simply not existent” in BC.

Ministry Submissions

The Ministry reviewed the reasons as expressed in the Reconsideration Decision as showing that required criteria were not met.

The first set of criteria involves visits to nearby BC medical professionals. Neither of the 2 options was met because the transportation was not for a visit to:

- 1) An office in the local area of a “medical practitioner” or “nurse practitioner”. That is because those are terms defined in the *Interpretation Act* as referring to people registered with their profession’s BC health regulators. Alberta doctors and nurses do not satisfy that definition.
- 2) The office of the nearest available specialist in field of medicine or surgery. “Specialist” is a defined term in the *Regulation* as a medical practitioner, meaning a registrant of the College of Physicians and Surgeons that is recognized by that College as a specialist. The Alberta doctors and nurses do not satisfy that definition.

The second set of criteria required that the travel be to the nearest suitable hospital or rehabilitation hospital. The Ministry found that there was not enough evidence provided to explain what specific services are needed but cannot be provided in BC. So the Ministry found that it couldn't confirm that travel to Alberta was the nearest suitable option.

The last issue was that the Ministry lacked information to be satisfied that the application was for the "least expensive appropriate mode of transportation". The Appellant did not explain the extra 2 nights of accommodation for a 12-hour journey where one night would be expected.

Separate from those decisions the file does show that in January a Medical Transportation Supplement was approved for travel to Alberta. No details or criteria are shown, but it was a special approval suggesting it would be denied unless a special exception was approved under other authority.

Admissibility of New Evidence

Under section 22(4) of the *Employment and Assistance Act*, the Panel may admit evidence that is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

During the course of the hearing, the Appellant submitted a "To Whom It May Concern" memorandum dated August 21, 2024 signed on behalf of the *AB Pediatrician*. The Panel admitted this into evidence.

The Panel also admitted oral testimony as evidence from the Appellant and the Ministry. Any of that evidence relevant to the decision is cited in the decision below.

Part F – Reasons for Panel Decision**Purpose and Standard of Review**

The purpose of the Panel is not to redo the Reconsideration Decision under appeal or decide whether it agrees with the Ministry's decision. It is to decide whether the Ministry did, or did not, reasonably come to the decision it made considering two factors. These are whether the applicable laws were reasonably applied and whether the evidence was also reasonably applied in the circumstances. The standard includes whether any evidence, that might alter the outcome, was overlooked, unreasonably given improper weight, or mischaracterized. The decision itself must be internally coherent, and be justified, intelligible and transparent as required for the circumstances. However, the Panel has the unique power to admit and consider any new or updated evidence as if the Ministry knew it at the time. That means this decision assesses the reasonableness of the Reconsideration Decision based on what is known now.

Discussion of Issues

In the Reconsideration Decision, the Ministry found that transportation to appointments with the Alberta pediatrician, physical therapist, dietitian, and occupational therapist did not meet the requirements set out in the *Regulation*, Schedule C section 2(1)(f) because the travel was:

- Not “to a local office of a medical or nurse practitioner”;
- Not “to the office of the nearest available specialist”, as that term is defined; and
- Not “to the nearest suitable hospital or rehabilitation hospital”.

While the Ministry recognized the *BC Physician* stated that the child needed medical services not available in BC, the Ministry was not satisfied that this was the case. This is because the *BC Physician* had only had one appointment with the child and did not “explain what services specifically are needed that cannot be provided in British Columbia.” Also, the *AB Pediatrician* appointment was not in a hospital or rehabilitation hospital.

Lastly, the Ministry stated that the information provided showed 2 additional nights of accommodation during the travel period and that it was “unable to establish that the costs for which [the Appellant was] requesting a health supplement ... to attend [the child's] appointments in Edmonton represent the least expensive appropriate mode of transportation for [the Appellant's] travel.”

The Reconsideration Decision and the appeal only focus on the criteria that the Ministry says was not met under the *Regulation*, Schedule C section 2(1)(f). The Panel addresses only compliance with those criteria and not entitlement generally, or the authorization or

special exemption that may have been granted for other travel in other circumstances. The Panel also does not explore other options that might apply and that might include the power of the Ministry to make exceptions where applications would be denied otherwise.

This discussion will focus, on the reasons given by the Ministry for the denial in the Reconsideration Decision, as set out above.

Local Area Office of a Medical or Nurse Practitioner (BC)

One of the available listed criteria for a Medical Transportation Supplement is under the *Regulation*, Schedule C section 2(1)(f)(i). This is for transportation to or from:

- (i) an office, in the local area, of a medical practitioner or nurse practitioner ...

One key element here is that “medical practitioner” and “nurse practitioner” are defined terms and mean only certain individuals. Section 29 of the *Interpretation Act* applies to provide the definitions. These are as expressed by the Ministry in its Reconsideration Decision, and the medical practitioner or nurse practitioner involved must be registrants of their respective health profession regulators in BC as set out in the *Interpretation Act*. These are the College of Physicians and Surgeons of British Columbia and the British Columbia College of Nurses and Midwives (or their successors).

There is no evidence that the *AB Pediatrician* or any of the others to be seen in Alberta were registrants of an applicable health profession regulator in BC.

Although not expressly stated in the Reconsideration Decision, the offices in Edmonton are also not local to the Appellant’s location, so that criteria is also not met.

With respect to the foregoing, whereby the medical or nurse practitioner are not registrants in a respective health profession regulator in BC and that the medical office is not located in BC either; the Panel finds that the Ministry reasonably applied the applicable laws to the evidence in the circumstance.

Office of the Nearest Available Specialist

A second of the list of criteria for Medical Transportation Supplement is under the *Regulation*, Schedule C section 2(1)(f)(ii). This is for transportation to or from:

- (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 ...

Similar to the issue above, a key element here is that “specialist” is a defined term and means only certain individuals. This term is defined in the section 1 of Schedule C of the *Regulation* meaning “a medical practitioner recognized as a specialist ...”. The first part of that is the defined term “medical practitioner”. As discussed above, there is no evidence

that the *AB Pediatrician* to be seen in Alberta is a registrant of the College of Physicians and Surgeons of British Columbia. It then also follows that there is no evidence that the *AB Pediatrician* is recognized by that College as one of its registrants with a specialty.

Also as above, although not expressly stated in the Reconsideration Decision, the offices in Edmonton are not local to the Appellant's BC location, so that criteria is also not met.

With respect to the foregoing, where neither the referring medical or nurse practitioner nor the "specialist" in question are registrants in a respective health profession regulator in BC; the Panel finds that the Ministry reasonably applied the applicable laws to the evidence in the circumstance.

Nearest Suitable Hospital to Receive Benefits (under MPA) or Hospital Services (under HIA)

A third and fourth of the listed criteria addressed in the reasons of the Reconsideration are provided under the *Regulation*, Schedule C section 2(1)(f)(iii) and (iv). Here, the options are for transportation to or from:

(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*,

The key elements are:

- The "nearest suitable" hospital.
- The definition of the different types of 'hospitals'.

-Nearest Suitable

Addressing the "nearest suitable" element in the above, the Ministry recognized the *BC Physicians' Memo* on the matter but was not satisfied that any medical services needed by the child were not available in BC. As such, the Panel finds that the Ministry did not accept that the "nearest suitable" facility was in Edmonton and not in BC.

The stated reason from the Ministry for its decision was that the *BC Physician* had only one appointment with the child and did not "explain what services specifically are needed that cannot be provided in British Columbia." The Panel finds no need to address that the appointment was a single one, but does address the *BC Physicians' Memo*. With respect to that memo the Panel finds that the statement was unsupported and the Ministry's assessment to be reasonable. The Panel notes the lack of explanation of needed services also fails to indicate any enquiry or other basis upon which the *BC Physician* determined that BC lacked such services. The May 6, 2024 Consultation Summary from the BC Nurse Practitioner also made no representations on the matter.

The Panel accepts the Appellant’s testimony that there are long wait lists for certain treatment but that is indicative of services being available but, perhaps, delayed. The Panel has no information, and none was provided in evidence or testimony to transform being waitlisted to there being no “suitable” facility in BC, or nearer than Edmonton.

Although not expressly addressed in the Reconsideration Decision, the Ministry did not apply “nearest suitable” as being based upon the assessment of the Appellant (i.e. that the BC Children’s Hospital was not suitable). In testimony the Appellant only referenced the BC Children’s Hospital and expressed that it was not suitable. The Appellant testified to being unable to find a physician there, in the circumstances of the waitlists, workload and others including prior conflict, perceived malpractice, pending litigation, rejection of treatment plans, and use of unprescribed alternatives.

The Panel finds that it was reasonable for the Ministry to interpret “nearest suitable” as an objective standard and not decided on a subjective assessment of an applicant of what hospital was suitable. The Panel finds that there is a lack evidence to demonstrate that the BC Children’s Hospital is unavailable as distinct from unwilling to adopt a treatment plan developed elsewhere or that may engage other practical risks.

Considering all the above the Panel finds that the Ministry was reasonable to find that it lacked information to be satisfied that there was no “suitable” facility in BC, or nearer than Edmonton.

-Hospital

Addressing the definition of the different types of ‘hospitals’ the Ministry commented on one component. It noted that the *AB Pediatrician’s* office was a private clinic. As such it found that the child’s appointment at that place was not at a hospital or rehabilitation hospital, as is necessary to satisfy sections 2(1)(f)(iii) and (iv) of Schedule C of the *Regulation*.

It says that based upon that “the [M]inistry is not satisfied that [the child’s] appointments are to take place at the nearest suitable hospital / rehabilitation hospital.” However, the Ministry does not state whether the other facilities in Alberta satisfied those provisions. It fails to address whether the definition of “hospital” and “rehabilitation hospital” under BC legislation applies to facilities in Alberta (with “hospital” in their names).

The Reconsideration Decision is unclear whether the Ministry accepted that they do when it states:

The ministry acknowledges that your appointments on May 23 and May 24 are at hospitals / rehabilitation hospitals where the medical staff are familiar with [the child’s]

medical needs, and that you have had serious concerns regarding [the child's] past medical treatment from British Columbia children's medical services.

If the Ministry was accepting that the other Edmonton facilities (i.e. excluding the private clinic) meet the definition of "hospital" under the applicable BC laws, then the exclusion of one appointment has only an incremental impact.

The Ministry provided no reason why that single exclusion of the private clinic affected its decision. It did not contest that it added to the cost by adding a day of travel and hotel cost to the start of the journey. The Ministry only took issue with the costs in respect of the return trip. The issue of costs is discussed below and, as will be seen, is decisive. Given that the costs issue is decisive the Panel finds that it is irrelevant whether the Ministry chose to discuss, in the Reconsideration Decision, whether "hospitals" under BC law included or excluded the other Alberta facilities As such it was reasonable for the Ministry to not address that matter.

-Least Expensive Appropriate Mode of Transportation

The Ministry assessed the cost and whether the health supplement sought was for "the least expensive appropriate mode of transportation to or from ...", as required by sections 2(1)(f) of Schedule C of the *Regulation*. The Ministry stated that it was "unclear why [the Appellant] would require two additional nights of accommodation (for the nights of May 25 or May 26) after [the child's] last appointment on May 24" which was set for 1pm.

The Panel notes that if the Edmonton facilities meet the definition of "hospitals" under the applicable legislation, and the private clinic is excluded, the application included:

- Departure from the Appellant's BC location: 3 travel days with hotels before the first 'hospital' appointment (only 2 days before the appointment with the *AB Pediatrician*).
- Return from Edmonton: 3 or 4 travel days - (It would be 4 travel days and 3 hotels if leaving the same day as the last appointment at 1pm; 3 travel days and 2 hotel stays if the return starts the next day.)

The meaning of "mode of transportation" was not addressed in the Reconsideration Decision or contested by the Appellant. The Panel finds that the Reconsideration Decision may be read as reasonably applying that as meaning more than just the means of physical transportation but also routes, stop-overs, hotel and the like to assess the "least expensive" option.

The Panel finds that the Appellant had not provided sufficient information that would clarify for the Ministry why the return trip would take longer, as part of the assessment of whether the application was for the "least expensive appropriate mode of transportation".

The Panel finds that it is reasonable for the Ministry to have such clarity before any expenditure of public funds.

Section 2(1)(f)(v) and (vi)

Section 2(1)(f)(v) and (vi) of the *EAPWD Regulation* Schedule C are not considered by the Panel because neither was addressed in the Reconsideration Decision or contested in the Appeal. In addition, given the foregoing, that leads to a denial, the Panel finds no need for the Ministry to have addressed them, or for this Panel to do so now. For clarity the provision only allows payment:

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.

Conclusion

The Panel finds that the Ministry was reasonable in applying the facts and the applicable enactments when it determined that the Appellant's application had not met all the criteria necessary under section 2(1)(f) of Schedule C of the *Regulation*. The strongest, and decisive, reason for denying the Appellant's application was that it did not meet the opening phrase of that section because the Ministry was not satisfied that the application was for the least expensive appropriate mode of transportation.

Other criteria were also not met but even if met would not overcome the above. The Panel also finds that same applies despite the Reconsideration Decision not intelligibly explaining why, how or whether Edmonton facilities with "hospital" in their names are also defined and designated under BC legislation as "hospitals" for which a Medical Transportation Supplement could be paid.

Concluding Decision

The Appellant is **unsuccessful** on appeal, the Panel having found that in the Reconsideration Decision, the applicable laws were reasonably applied, and the evidence was also reasonably applied in the circumstances.

Accordingly, the Panel **confirms** the Reconsideration Decision.

Appendix – 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 For Persons With Disabilities Regulation

Definitions

61.01 In this Division:

"continuation date",

- (a) in relation to a person who is a main continued person under section 61.1(1) *[access to medical services only]* as a result of having been part of a family unit on the date the family unit ceased to be eligible for disability assistance, means that date, and
- (b) in relation to a dependent continued person under section 61.1 (2) of a main continued person, means the continuation date of the main continued person;

"continued person" means

- (a) a main continued person under section 61.1 (1), or
- (b) a dependent continued person under section 61.1 (2);

Access to medical services only

61.1 (1) Subject to subsection (4), a person is a main continued person if

- (a) the person was
 - (i) part of a family unit identified in subsection (3) on the date the family unit ceased to be eligible for disability assistance, and
 - (ii) a person with disabilities on that date,
- (b) the person has not, since that date, been part of a family unit in receipt of income assistance, hardship assistance or disability assistance, and

(c) in the case that the family unit referred to in paragraph (a) (i) was a family unit identified in subsection (3) (g), the agreement referred to in subsection (3) (g) is in force.

(2) Subject to subsection (6), a person is a dependent continued person if

(a) the person was a dependant of a main continued person under subsection (1) on the main continued person's continuation date and is currently a dependant of the main continued person, or

(b) the person is a dependant of a person who is a main continued person under subsection (1) as a result of having been part of a family unit identified in subsection (3) (b), (c), (d), (e), (f) or (g).

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.

Health supplement for persons facing direct and imminent life threatening health need

69 (1) The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [*general health supplements*] and 3 [*medical equipment and devices*] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that

(a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,

(b) the health supplement is necessary to meet that need,

(c) the adjusted net income of any person in the family unit, other than a dependent child, does not exceed the amount set out in section 11 (3) of the Medical and Health Care Services Regulation, and,

(d) the requirements specified in the following provisions of Schedule C, as applicable, are met:

(i) paragraph (a) or (f) of section (2) (1);

(ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

(2) For the purposes of subsection (1) (c),

(a) "adjusted net income" has the same meaning as in section 7.6 of the Medical and Health Care Services Regulation, and

(b) a reference in section 7.6 of the Medical and Health Care Services Regulation to an "eligible person" is to be read as a reference to a person in the family unit, other than a dependent child.

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.

Hospital Insurance Act

Definitions

1 In this Act:

"hospital" means, except in sections 24 and 29 (2) (a),

- (a) a hospital as defined by section 1 of the *Hospital Act* that has been designated under this Act by the Lieutenant Governor in Council as a hospital required to provide the general hospital services provided under this Act,
- (b) a private hospital as defined by section 5 of the *Hospital Act* with which the government has entered into an agreement requiring the hospital to provide the general hospital services provided under this Act,
- (c) a hospital owned and operated by Canada that has been designated under this Act a "federal hospital",
- (d) an agency or establishment that
 - (i) provides a service to hospitals or a health service and
 - (ii) has been designated as a hospital facility by the Lieutenant Governor in Council, or
- (e) an establishment in which outpatient services are available that has been designated a diagnostic and treatment centre by the Lieutenant Governor in Council for providing outpatient benefits to beneficiaries in accordance with this Act and the regulations;

Hospital Insurance Act Regulations

Definitions

1.1 In these regulations, unless the context otherwise requires:

"general hospital" means a hospital or a portion of a hospital as defined under paragraph (a) or (c) of the definition of "hospital" in the Act, the prime function of which is to provide services and treatment for persons suffering from the acute phase of illness or disability;

"rehabilitation hospital" means a hospital or a portion of a hospital as defined under paragraph (a) or (c) of the definition of "hospital" in the Act, the prime function of which is to provide facilities for the active treatment of persons requiring rehabilitative care and services;

Hospital Act

Definitions

1 In this Act:

"hospital", except in Parts 2 and 2.1, means a nonprofit institution that has been designated as a hospital by the minister and is operated primarily for the reception and treatment of persons

- (a) suffering from the acute phase of illness or disability,
- (b) convalescing from or being rehabilitated after acute illness or injury, or
- (c) requiring extended care at a higher level than that generally provided in a private hospital licensed under Part 2;

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";

APPEAL NUMBER 2024-0295

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

Kent Ashby

Signature of Chair

Date (Year/Month/Day)

2024-09-04

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2024/09/04

Print Name

John Pickford

Signature of Member

Date (Year/Month/Day)

2024/09/03