

**Reasons for Decision:**

**Order # AP1516-0133**

The appellant appealed two separate issues

1. Bus pass funds removed
2. Special diet allowance denied

Bus Pass

The appellant attended the hearing with the appellant's advocate, <reference removed>.

The Department reported at the hearing that the appellant has had a health bus pass included in the appellant's budget for several years. A letter was sent to the appellant on <reference removed> indicating that the appellant's health bus pass and health telephone allowance were up for review on <reference removed>. The letter also indicated that the appellant would need a letter from the appellant's medical doctor for further eligibility. The appellant would require 3 to 5 weekly medical appointments in order to be eligible for a monthly health bus pass, otherwise bus tickets will be provided.

The appellant has been sober for <reference removed>. The Department does not support an addictions bus pass, as it is intended for treatment in the first six months of recovery. The appellant provided the Department with a doctor's letter dated <reference removed> that states the appellant has severe osteoarthritis and old substance abuse issues however the appellant has had no alcohol or drugs for <reference removed>. The doctor indicated that the appellant requires a monthly bus pass for the appellant's medical appointments and <reference removed> and <reference removed> meetings.

The Department advised that the appellant has never requested or had funds for an addictions bus pass in the appellant's budget; it has always been a health bus pass. They stated that they can provide the appellant with a health bus pass if the appellant provides a detailed letter stating the number of medical appointments the appellant attends. Employment and Income Assistance (EIA) provides the cheapest form of transportation therefore if the appellant has 3 or more medical appointments per week, then a monthly bus pass would be the cheapest. If the appellant has less than 3 medical appointments per week the appellant would be provided with bus tickets upon confirmation of the medical appointments. Therefore there is insufficient information to determine eligibility.

The advocate indicated at the hearing that the Department is focusing on medical

appointments for eligibility of the health bus pass however the appellant's situation is more than medical appointments and the appellant should be eligible for an addictions bus pass.

The advocate referred to the Department circular 2012-05 and policy number 22,4,9 of the EIA Administration Manual which was distributed and submitted into evidence. It states that EIA recognizes that for some participants, attending self help addiction groups is of primary importance and there are circumstances in which a director or designate can extend transportation supports beyond the established three month time frame to up to six months. The advocate stated that the Department was aware the appellant was in treatment for <reference removed> and could have issued the appropriate transportation needs. The advocate said the department has a long standing practice of granting bus pass allowances based on the same information the appellant has provided today and that there was no clarification that the appellant had to provide more information than the appellant's previous reviews. The advocate stated that the Department could have extended the appellant's bus pass allowance for a couple of months in order to give the appellant time to gather the additional information required. The advocate also stated that if the transportation policy has changed, the Department must allow people time to adjust to the change and to allow proper notification of their requirements.

The appellant indicated at the hearing that the appellant has had the bus pass funds for over <reference removed> and has never had to meet the criteria of 3 medical appointments per week before. The appellant advised that the appellant attends <reference removed> five times per week and there are no meetings close to the appellant's residence. The appellant must take a bus. The appellant stated that the appellant's average medical appointments are three per month but the appellant's <reference removed> treatment, which is just as much of a health appointment, should be covered and included with the appellant's number of medical appointments.

After carefully considering all the written and verbal information the Board has determined that the appellant has not provided the required information in order for the appellant's health transportation needs to be assessed.

The Manitoba Assistance Regulation Schedule A, division 3, Section 9, Health Care Expenses specifies that: emergency transportation and other expenses as may be authorized by the director and which, in the director's opinion, are necessary to provide the care, treatment or attention required.

The Department has interpreted this regulation to allow for transportation to all medical appointments, not just emergency transportation. As the appellant doctor's letter did not provide confirmation of any regularly occurring medical appointments, the Board agrees that the Department does not have any justification for adding a health transportation allowance to the appellant's budget.

The Board notes that unfortunately, this change in the Department's practice for issuance of a bus pass may have a negative impact upon the appellant although

personal circumstances are unchanged. Bus transportation is provided for confirmed medical appointments only.

However, as this issue has been raised by other appellants, the Board will be discussing it at their next meeting as part of their advisory responsibilities

In relation to the addictions bus pass, it is intended for treatment in the first 6 months of recovery. The policy provides for three months with a possible extension up to six months based on the participant's circumstances. The Department advised that with the appellant's <reference removed> of sobriety, the appellant wouldn't qualify for ongoing addictions transportation funds. Therefore, the Board has confirmed the decision of the Director and the appellant's appeal is dismissed.

### Diet Allowance

The appellant was receiving a high protein diet allowance in the appellant's budget for over <reference removed>. This allowance was up for annual review on <reference removed>.

The advocate stated that the diet allowance was granted in <reference removed> after the appellant's car accident. The diet was needed to maintain the muscle mass in the appellant's joints. The appellant's doctor requested more protein and calcium in the appellant's diet.

There has been no change in the appellant's condition since then and the appellant has been stable while on the diet. The advocate stated that the appellant has not been advised or notified that anything was different and that if the Department makes a change in a policy, participants should be notified. The appellant stated that the appellant does not understand why the appellant's diet allowance was removed from the appellant's budget when everything is the same as previous renewals.

The Department indicated at the hearing that the appellant's diet allowance was up for review on <reference removed>. A letter was sent on <reference removed> advising what information was required.

On <reference removed> the Department received the Therapeutic Diet and Nutritional Supplement Request and Justification form. The doctor has indicated that the appellant requires a High Protein/Calorie diet due to the appellant's condition of severe osteoarthritis. The request was denied as severe osteoarthritis does not meet the criteria as one of the conditions for a high protein/calorie diet allowance and the information did not indicate any evidence of unintentional weight loss/body wasting.

Decisions regarding therapeutic diet allowances are currently made by the Disability Health Supports Unit effective July 2014 to ensure consistency in decision making. Individual case workers do not have the authority to add special diet allowances to income assistance budgets. The Disability Health Supports Unit reviewed the

information and determined that not enough information was provided to meet the eligibility criteria therefore the diet allowance was denied. The letter of <reference removed> states that the request was denied.

Schedule A Section 4 of The Manitoba Assistance Regulation states that:

If a medical practitioner has prescribed a special diet for a person, the applicable allowance for basic necessities under Table 1,2 or 3 may be exceeded by an amount approved by the minister,

The Employment and Income Assistance Administrative Manual outlines what the amounts approved by the minister are in Section 18.4.2. This section contains a list of specific therapeutic diets for specific medical conditions, and a monthly amount to be added to the diet when a physician or other medical profession has prescribed the specific therapeutic diet for the treatment of the listed medical conditions.

After carefully considering the written and verbal information the Board has determined that the appellant's medical condition of severe osteoarthritis does not meet the guidelines that have been created by the Employment and Income Assistance Program for the inclusion of a high protein diet allowance and further medical information was not provided.

The advocate requested that the appellant be provided with more time to obtain the requested information for eligibility review. A letter was sent to the appellant on <reference removed> outlining a complete listing of what is required to establish further eligibility. The appellant's diet allowance was removed from the appellant's budget in <reference removed>. The Board finds this to be sufficient notice. Therefore the decision of the director has been confirmed and this appeal is dismissed.

## **DISCLAIMER**

These are electronic copies of the Reasons for Decision issued by the Social Services Appeal Board. These written reasons have been edited to protect the personal information of individuals by removing personal identifiers.