

**PART C – Decision under Appeal**

The decision under appeal is the ministry's reconsideration decision dated February 5, 2012 which denied the appellant's request for a supplement to cover the cost of two threshold ramps. The ministry found that the item requested is not listed as an eligible item in Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and the appellant is not eligible for a supplement pursuant to Section 69 of the EAPWDR.

**PART D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 62 and 69 and Schedule C, Sections 2, 2.1, 2.2, 3, 3.1 to 3.11, 4, 4.1, 5, 6, 7, 8, 9

## PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Quotation from a home health products supplier dated November 26, 2011 for 2 1 1/2" rubber threshold ramps and 2 3" aluminum threshold ramps plus labour required for installation in the total amount of \$990;
- 2) Letter dated November 30, 2011 from the appellant's physician stating in part that the appellant requires a threshold ramp for medical reasons;
- 3) Letter from an occupational therapist (OT) to the ministry dated December 14, 2011 stating in part that the appellant is diagnosed with multiple sclerosis, seizure disorder, and lives with his mother and aunt at his aunt's home; the appellant requires assistance with all ADL's [activities of daily living] and is able to ambulate very short distances with 4 wheeled walker and stand-by assist, with the rest of the day spent in a manual wheelchair, with his ability to walk deteriorating; the appellant relies on a manual wheelchair for basic indoor mobility and there is a large step down to exit both doors; the appellant needs a smooth transition to safely enter and exit through both doors and the recommendation is for threshold ramps at both doors;
- 4) Letter from an OT to the ministry dated January 26, 2012 stating in part the same information as in the December 14, 2011 letter with the exception that the statement that a large step down to exit at both doors has been removed; and,
- 5) Request for Reconsideration- Reasons with 6 photos of two different types of threshold ramps.

The appellant did not attend the hearing but a Release of Information form was provided authorizing his mother to attend the hearing as his advocate and to make decisions on his behalf.

At the hearing, the appellant's mother stated that she wished to make a request for the threshold ramps on behalf of her son as well as others with his same condition, who are reliant on wheelchairs for mobility, and who risk being tipped out of their chairs if there is not a smooth transition at the doorways. The appellant's mother (advocate) explained that if her son is tipped out of his wheelchair, he could have a tonic-clonic seizure which might lead to complications, including heart failure. The advocate stated that the threshold ramps are placed on either side of the ridge in the threshold in the doorway and would allow her son's wheelchair to pass safely through. The advocate explained that the Quote dated November 26, 2011 was a more expensive option that the OT had researched and that she believed the threshold ramps could be obtained at a cheaper cost. The advocate pointed to the photographs of two types of threshold ramps and stated that the wood ramp was fashioned for her sister when she was temporarily in a wheelchair, that they are currently being used at their house but are starting to show signs of wear and are not going to last on the outside. The advocate explained that the metal ramps displayed in the photographs are designed for use on the outside of the doorway.

In the Request for Reconsideration, the advocate adds that the threshold ramp is a safety device that is not a "home renovation." The advocate states that the threshold ramps are small pieces of wood or metal that do not require a screw or nail to be placed anywhere, but are set on the floor on the inside of the door and on the other side on the door encasement on the outside of the door, and do not involve renovating the house in any way.

The ministry's evidence included that the appellant has been designated as a person with disabilities (PWD). The appellant submitted a request for threshold ramps on December 14, 2011. The request included a letter from the appellant's OT dated December 14, 2011, a letter from his physician dated November 30, 2011, and a Quote from a health products supplier. On December 15, 2011, the appellant was advised that the request was denied and the appellant requested a reconsideration and included a letter from the advocate dated January 25, 2012 which indicates that the requested ramps cannot be considered a home renovation as it is needed for the appellant's safety. A second letter from the OT dated January 26, 2012 was also provided and indicates that the threshold ramps requested are for the front and bedroom doors. The ministry acknowledges that the threshold ramps have been prescribed by the appellant's physician.

## PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost of two threshold ramps because the item requested is not listed as an eligible item in Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and the appellant is not eligible for a supplement pursuant to Section 69 of the EAPWDR, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Pursuant to Section 62 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), the applicant must be a recipient of disability assistance, or be a dependent of a person in receipt of disability assistance in a variety of scenarios. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that must be met in order to qualify for a health supplement for various items. In this case, the ministry has found that the requirement of Section 62 has been met in that the appellant has been approved as a recipient of disability assistance.

At issue is whether the requested threshold ramps are an eligible item under Schedule C of the EAPWDR, including:

### 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:

(a) medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all of the following requirements are met:

(i) the supplies are required for one of the following purposes:

- (A) wound care;
- (B) ongoing bowel care required due to loss of muscle function;
- (C) catheterization;
- (D) incontinence;
- (E) skin parasite care;
- (F) limb circulation care;

(ii) the supplies are

- (A) prescribed by a medical practitioner or nurse practitioner,
- (B) the least expensive supplies appropriate for the purpose, and
- (C) necessary to avoid an imminent and substantial danger to health;

(iii) there are no resources available to the family unit to pay the cost of or obtain the supplies. ...

Further, Section 2(1.1) of Schedule C, provides that "medical or surgical supplies" do not include nutritional supplements, food, vitamins, minerals or prescription medications.

Section 2(1)(c) provides that the following items are health supplements if the other criteria of the section are met: a service for acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, physiotherapy.

Section 2(1)(f) of Schedule C provides that the following items are health supplements if the other criteria of the section are met: the least expensive appropriate mode of transportation.

Section 2.1 of Schedule C provides that the following are the optical supplements that may be provided under Section 62.1 of the EAPWDR: basic eyewear and repairs, pre-authorized eyewear and repairs.

Section 2.2 of Schedule C provides that the minister may pay a health supplement under Section 67.2 of the EAPWDR for an eye examination if the other criteria of the section are met.

### **Medical equipment and devices**

- 3 (1) Subject to subsections (2) to (5) of this section, the medical equipment and devices described in sections 3.1 to 3.11 of this Schedule are the health supplements that may be provided by the minister if
- (a) the supplements are provided to a family unit that is eligible under section 62 [*general health supplements*] of this regulation, and
  - (b) all of the following requirements are met:
    - (i) the family unit has received the pre-authorization of the minister for the medical equipment or device requested;
    - (ii) there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device;
    - (iii) the medical equipment or device is the least expensive appropriate medical equipment or device.
- (2) For medical equipment or devices referred to in sections 3.1 to 3.8, in addition to the requirements in those sections and subsection (1) of this section, the family unit must provide to the minister one or both of the following, as requested by the minister:
- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
  - (b) an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device. ...

Section 3.1 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a cane, a crutch, a walker, an accessory to a cane, a crutch or a walker.

Section 3.2 provides that the following items are health supplements for the purposes of section 3 if the other criteria of the section are met: a wheelchair, an upgraded component of a wheelchair, an accessory attached to a wheelchair.

Section 3.3 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a wheelchair seating system, an accessory to a wheelchair seating system.

Section 3.4 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a scooter, an upgraded component of a scooter, an accessory attached to a scooter.

Section 3.5 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a grab bar in a bathroom, a bath or shower seat, a bath transfer bench with hand held shower, a tub slide, a bath lift, a bed pan or urinal, a raised toilet seat, a toilet safety frame, a floor-to-ceiling pole in a bathroom, a portable commode chair.

Section 3.6 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a hospital bed, an upgraded component of a hospital bed, an accessory attached to a hospital bed.

Section 3.7 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a pressure relief mattress.

Section 3.8 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a floor or ceiling lift device.

Section 3.9 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a positive airway pressure device, an accessory that is required to operate a positive airway pressure device, a supply that is required to operate a positive airway pressure device.

Section 3.10 provides that the following items are an orthosis which is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a custom-made foot orthotic, custom-made footwear, a permanent modification to footwear, an ankle brace, an ankle-foot orthosis, a knee-ankle-foot orthosis, a knee brace, a hip brace, an upper extremity brace, a cranial helmet, a torso or spine brace.

Section 3.11 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a hearing aid.

Section 4 of the Schedule provides that the health supplement that may be paid under section 63 [*dental supplements*] are basic dental services, if the other criteria of the section are met.

Section 4.1 provides that the health supplement may be paid under section 63.1 for crown and bridgework, if the other criteria of the section are met.

Section 5 of Schedule C provides that the health supplement that may be paid for under Section 64 of the EAPWDR are emergency dental services.

Section 6 of the Schedule provides that the amount of a diet supplement that may be provided under section 66 [*diet supplements*] is set out for various conditions, if the other criteria of the section are met.

Section 7 of the Schedule provides as follows:

- 7 The amount of a nutritional supplement that may be provided under section 67 [*nutritional supplement*] of this regulation is the sum of the amounts for those of the following items specified as required in the request under section 67 (1) (c):
- (a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to \$165 each month;
  - (b) Repealed. [B.C. Reg. 68/2010, s. 3 (b).]
  - (c) for vitamins and minerals, up to \$40 each month.

Section 8 of the Schedule provides that the amount of a natal supplement that may be provided under section 68 [*natal supplements*] is set out, if the other criteria of the section are met.

Section 9 of the Schedule provides that the minister may provide infant formula under section 67.1 of the EAPWDR if the other criteria of the section are met.

Under Section 69 of the EAPWDR, the minister may provide a general health supplement if it is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under the 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 person's family unit is receiving premium assistance under the *Medicare Protection Act*, 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 3.11, other than paragraph (a) of section 3 (1).

The ministry's position is that the appellant is eligible to receive health supplements under Section 62 of the EAPWDR but that the requested item, a threshold ramp, is not an eligible item as medical equipment specifically set out in Sections 3.1 through 3.11 of Schedule C of the EAPWDR. The advocate's position is that although the threshold ramps are not specifically listed as an item in Sections 3.1 through 3.11, that they function in a similar manner to a grab bar in a bathroom, as set out in Section 3.5. The advocate points out that the grab bars function to assist a person to transfer in and out of the bathtub, much like the threshold ramps allow a person to transfer in and out of the house, and that both are required to do this action safely. The advocate argues that the threshold ramps are a relatively inexpensive safety item that could save increased health costs in the long-term for those who are tipped out of their wheelchairs due to uneven thresholds, potentially suffering seizures and related health complications.

The panel finds that the ministry reasonably determined that the requested threshold ramp is not specifically set out in Section 3.1 through 3.11 of Schedule C of the EAPWDR as it is not: a cane, a crutch or a walker; a wheelchair, an upgraded component of a wheelchair, an accessory attached to a wheelchair; a wheelchair seating system, an accessory to a wheelchair seating system; a scooter, an upgraded component of a scooter, an accessory attached to a scooter; a grab bar in a bathroom, a bath or shower seat, a abath transfer bench, a tub slide, a bath lift, a bed pan or urinal, a raised toilet seat, a toilet safety frame, a floor-to-ceiling pole in a bathroom, or a portable commode chair; a hospital bed, an upgraded component of a hospital bed, an accessory attached to a hospital bed; a pressure relief mattress; a floor or ceiling lift device; a positive airway pressure device, an accessory that is required to operate a positive airway pressure device, a supply that is required to operate a positive airway pressure device; a custom-made foot orthotic, custom-made footwear, a permanent modification to footwear, an ankle brace, an ankle-foot orthosis, a knee-ankle-foot orthosis, a knee brace, a hip brace, an upper extremity brace, a cranial helmet, a torso or spine brace; or a hearing aid. Although the advocate argues that the threshold ramp is similar in function to grab bars in a bathroom, as set out in Section 3.5, the panel finds that Section 3 stipulates that only the listed items are health supplements that may be provided, and the Section does not provide for items potentially similar in function to those listed. The panel finds that the ministry reasonably concluded that the threshold ramp does not meet the requirements of Sections 3.1 to 3.11 of Schedule C of the EAPWDR.

The ministry's position is that the appellant's request for a supplement to cover the cost of a threshold ramp does not meet the criteria of the other sections of Schedule C of the EAPWDR, including sections 2(1)(a) or (c), 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 and 9, since a threshold ramps is not any of the items covered, namely: a medical or surgical supply that are either disposable or reusable, a service for acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, physiotherapy; optical supplements; eye examination supplements; a dental supplement; a crown and bridgework supplement; emergency dental supplements; diet supplements; monthly nutritional supplements; natal supplements; or infant formula. The advocate does not dispute that the request does not fall within any of these other sections of Schedule C. The panel finds that the ministry's decision, which concluded that the threshold ramp is not an item listed in the other sections of Schedule C of the EAPWDR, was reasonable.

With respect to Section 69 of the EAPWDR, the ministry's position in the reconsideration decision is that this section is intended to provide a remedy for those persons who are facing a direct and imminent life-threatening need for these supplements and who are not otherwise eligible to receive them. The ministry argues that the appellant does not require a remedy under Section 69 as he is eligible to receive health supplements set out under Schedule C, Sections 2 and 3. The ministry further argues that information has not been provided to demonstrate that the requirements of Section 69(d) are met as a threshold ramp is not set out under Schedule

C, Section 2(1)(a) [medical supplies] or Section 2(1)(f) [medical transportation] or in Sections 3 to 3.11. The advocate argues that although the threshold ramp is not specifically listed as an item in Section 3.1 through 3.11 of Schedule C, that it functions in a similar manner to a grab bar in a bathroom as set out in Section 3.5 and, therefore, the threshold ramp should be included in Schedule C.

The panel finds that the ministry determined that the appellant is eligible, as a recipient of disability assistance, for health supplements under Section 62 of the EAPWDR, whereas Section 69 applies to provide a health supplement to a person in the family unit who is otherwise not eligible for the health supplement under the EAPWDR. The panel also finds that the ministry reasonably determined that the requirements of Section 69(d) are not met as a threshold ramp is not set out under Schedule C, Section 2(1)(a) as medical or surgical supplies or under Section 2(1)(f) as a mode of medical transportation, or under Sections 3 to 3.11, as detailed above. Although the advocate argues that the threshold ramp functions in a similar manner to a grab bar in a bathroom as set out in Section 3.5 and, therefore, should be included in Schedule C, the panel finds that Section 3 stipulates that only the listed items are health supplements that may be provided, and the Section does not provide for items potentially similar in function to those listed. Therefore, the panel finds that the ministry's decision, which concluded that Section 69 of the EAPWDR does not apply to the appellant's circumstances, was reasonable.

In conclusion, the panel finds that the ministry's decision to deny the request for a supplement to cover the cost of two threshold ramps as not meeting the legislated criteria of Schedule C, Sections 3, 3.1 to 3.11, or Section 2(1)(a) or (c), 2.1, 2.2, 4, 4.1, 5, 6, 7, 8, and 9 or Section 69 of the EAPWDR, was a reasonable application of the applicable enactment in the circumstances of the appellant and, therefore, confirms the decision.