

PART C – Decision under Appeal

In a reconsideration decision dated 21 February 2012, the Ministry denied the Appellant's request for a scooter because it determined she did not meet the legislated criteria as set out in EAPWDR Schedule C, Section 3(2)(b) and Section 3.4(3)(a) and (c). The Ministry determined the assessment by a physiotherapist (PT) did not confirm the medical need for a scooter and did not confirm it was unlikely the Appellant will have a medical need for a wheelchair in the next 5 years. Furthermore, the Ministry was not satisfied the scooter was medically essential to achieve or maintain basic mobility.

PART D – Relevant Legislation

Employment and Assistance Persons With Disabilities Regulations (EAPWDR) Section 62(1)
Employment and Assistance Persons With Disabilities Regulations (EAPWDR) Schedule C, Section 3 and 3.4

PART E – Summary of Facts

Evidence before the Ministry at the time of the reconsideration decision included:

- A Medical Equipment Request Tracking Sheet dated January 8, 2012,
- A Medical Equipment Request and Justification Form dated November 28, 2011 including a physiotherapist (PT) assessment dated November 24, 2011,
- A quote for a scooter for \$3,229.15 dated November 24, 2011,
- A letter from the Appellant dated February 8, 2012,
- A letter from a PT dated (received) February 13, 2012.

In the PT assessment dated November 24, 2011 the Appellant is diagnosed with osteoarthritis in the knees, fibromyalgia, type II diabetes and high blood pressure. The Appellant reports being able to ambulate one city block and that a fall resulting in a fractured ankle 4 years ago started her knee pain which has been increasing and making her unable to work. The assessment notes the Appellant requires hands to complete a sit or stand but is able to transfer independently, her right leg coordination is much worse than the left, and she has difficulty performing toe to heel walk due to decreased balance. The summary of the objective assessment states the Appellant is able to function independently but has limited mobility due to bilateral knee osteoarthritis and lower limb decreased strength and endurance. The PT writes the Appellant used a 4 wheel walker through the past summer but cold weather increases the pain and "requests a scooter to help increase her independence and mobility".

In the letter received February 13, 2012 from the same PT, the PT states that the town the Appellant resides in does not have a public transit system or a reliable taxi service and the Appellant needs to have the ability to get to appointments and the hospital. The PT states she believes that excess use of a walker by the Appellant will put further strain on her shoulders and may result in a decrease of quality of life. She continues that a scooter will foster the Appellant's independence and maintain her mobility which will prevent muscle atrophy. She concludes that loss of independence leads to an increased need for outside interventions and support.

The Medical Equipment Request Tracking Sheet notes that the Appellant has no previous requests for medical equipment, that the Appellant reports being able to walk one city block, that the range of motion for her hips is within a normal range, that she is able to function independently with limited mobility and that she uses a 4 wheel walker during the summer but finds her pain is worse in cold weather.

The letter from the Appellant dated February 8, 2012 states the Medical Equipment Request is incorrect stating that she has had no previous medical equipment. She states that she was given a cane after she fractured her ankle 4 years ago. She continues that she feels her right foot has not healed properly and it causes her pain. She says she has had a 4 wheel walker since November 2010 and it helps her get around "slowly but surely". Furthermore, a previous knee operation, her fibromyalgia and osteoarthritis make it difficult to rely on her walker.

The Appellant states she needs the scooter as her mode of transportation. She needs monthly blood tests at the hospital which is approximately 4 kilometers away and she has no car, no one for rides, no bus service and the cab system in town is not reliable. She concludes that a wheel chair would not be workable with her medical conditions.

At the hearing the Appellant stated that she has a hard time walking, it is a hardship to walk a block and that she has fallen while walking with her walker. She believes that a scooter is a medical need.

At the hearing the Ministry explained that there is no indication that other less expensive medical equipment such as a manual wheelchair has been 'tried' by the Appellant. Furthermore the Ministry submits the PT assessment states the Appellant requested a scooter to help increase independence and concludes this does not constitute a medical need.

From the information presented, the Panel finds:

- The Appellant is designated as a Person with Disabilities with the Ministry.
- The Appellant is diagnosed with osteoarthritis of the knees, fibromyalgia, type II diabetes and high blood pressure.
- The Appellant can walk one block and functions independently with limited mobility.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry to deny the Appellant's request for a scooter because it determined she did not meet the legislated criteria as set out in EAPWDR Schedule C, Section 3(2)(b) and Section 3.4(3)(a) and (c). The Ministry determined the assessment by a physiotherapist (PT) did not confirm the medical need for a scooter and did not confirm it was unlikely the Appellant will have a medical need for a wheelchair in the next 5 years. Furthermore, the Ministry was not satisfied the scooter was medically essential to achieve or maintain basic mobility.

The legislation provides under EAPWDR Schedule C, Section 3(2)(b) and 3.4(3)(c):

Section 3(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:

(b) an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

Section 3.4 (3) The following are the requirements in relation to an item referred to in subsection (2) of this section:

(a) an assessment by an occupational therapist has confirmed that it is unlikely that the person for whom the scooter has been prescribed will have a medical need for a wheelchair during the 5 years following the assessment;

(c) the minister is satisfied that the item is medically essential to achieve or maintain basic mobility.

The Ministry argues that the assessment by the PT does not confirm that the Appellant will not need a wheelchair within 5 years or the medical need for a scooter, rather it is a request to help increase the Appellant's independence. The Appellant argues that excessive use of her walker will further strain her health and she requires the scooter for transportation.

The assessment from the PT states that the Appellant can function independently with limited mobility including one city block and concludes the Appellant requests a scooter to increase independence and mobility. In the letter received on February 13, 2012 the PT concludes the Appellant needs a scooter for transportation to appointments and to the hospital. The Panel finds the Ministry reasonably determined that these conclusions from the PT do not confirm a medical need and EAPWDR, Schedule 3, subsection (3)(2)(b) was not met.

As to EAPWDR 3.4(3)(a), the assessment from the PT neglects to address the unlikelihood of the Appellant having a medical need for a wheelchair during the 5 years following the assessment therefore the Panel finds the Ministry reasonably determined that this subsection was not met.

The assessment from the PT confirms the Appellant's pain is increasing and she displays decreased balance and strength in her legs however it also confirms the Appellant can transfer independently from sit to stand and that she uses a 4 wheel walker and can walk one city block. The Appellant

states she still uses her walker to get around although she indicates that in the near future she may not. The Panel must determine a finding based on the facts presented that describe the Appellant's current level of functioning. The Panel finds the Ministry's determination, based on the information provided, that Appellant maintains basic mobility with her walker and a scooter requested for transportation does not constitute a medically essential item to achieve or maintain basic mobility was reasonable and EAPWDR Schedule C Section 3.4(3)(c) was not met.

The Panel finds the Ministry decision to deny the Appellant a scooter was reasonably supported by the evidence and confirms the decision.