

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (the "Ministry") August 28, 2012 reconsideration decision denying the Appellant's request for the following items:

- Hair washer, beauty
- Easy wipe
- Reacher, 24" standard
- Shoe horn
- Stocking aid

The Ministry determined that the Appellant was not eligible for these items based on the criteria in sections 62, 69 and Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR") Section 62 and 69, and Schedule C.

PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from the Ministry files that the Appellant receives disability assistance.
2. Letters dated July 4, 2012 from an occupational therapist listing the Appellant's medical conditions, the help she needs with certain activities and recommending a number of items to address the Appellant's problems. Those items included a floor to ceiling pole with bar for next to the tub, fore arm crutches, wiping aid, long handled reacher, shoe horn, sock aid, and hair washing aid.
3. Two written quotes from a medical supplier listing the unit prices for these items as well as a discounted price.
4. Information from the Ministry files that the Appellant received approval for the floor to ceiling pole and the crutches.
5. Appellant's August 16, 2012 request for reconsideration in which she wrote that she is requesting the items to help her everyday with things she cannot do herself, such as wiping after using the toilet, putting on shoes and socks, reaching for items, and washing herself and her hair.

In her notice of appeal the Appellant wrote that the items she is asking for are for everyday needs. The easy wipe are so she can clean herself when done in the washroom. That item is an extension so she can reach to wipe herself. The other items are self-explanatory.

At the hearing, the Appellant said she needs the denied items to help her with everyday living. The most important item for her is the easy wipes. Without it, she needs someone to help her when she uses the toilet. She also said that her husband has to help her get dressed, put on her shoes and socks and do her hair. She cannot bend to pick up things from the floor. The Appellant explained that she has had major back problems for several years. About three and a half years ago, she had back surgery but it didn't do much good. She feels she is getting worse. The Appellant also said she and her husband both receive disability assistance. They receive \$1500 a month of which \$800 goes to rent and in the winter, \$200 goes for heat.

The Panel finds that the Appellant's notice of appeal statement and her hearing testimony relate to information about the Appellant's need for the denied items, which is in support of the evidence that the Ministry had about the Appellant's needs at the time of reconsideration. Therefore, the Panel admits that statement and the testimony into evidence under section 22(4) of the Employment and Assistance Act.

At the hearing, the Ministry referred to its reconsideration decision and noted that the Ministry reviewed all of the applicable legislation. The items requested are not in legislation and therefore the Ministry has no legislative authority to pay for them.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that Appellant was not eligible for a hair washer- beauty, easy wipe, reacher-24" standard, shoe horn and a stocking aid because the criteria in sections 62, 69 and Schedule C of the EAPWDR had not been met.

The following sections of the EAPWDR apply to this appeal:

62 (1) Subject to subsections (1.1) and (1.2), 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 family unit if the health supplement is provided to or for a person in the family unit who is

(a) a recipient of disability assistance,

69 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 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).

Schedule C

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. (c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year, (i) for which a medical practitioner or nurse practitioner has confirmed an acute need, (ii) if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and (iii) for which there are no resources available to the family unit to cover the cost: [acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, physiotherapy].

2.1 – optical supplements; 2.2 – eye examination supplements; 4 – dental supplements; 4.1 – crown and bridgework supplements; 5 – emergency dental supplements; 6 – diet supplements; 7 – monthly nutritional supplements; 8 – natal supplements; and 9 – infant formula.

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; and (iii) the medical equipment or device is the least expensive appropriate medical equipment or device.

3.1 canes, crutches and walkers; 3.2 wheelchairs; 3.3 wheelchair seating systems; 3.4 scooters; 3.5 (1) The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate transfers of a person or to achieve or maintain a person's positioning: (a) a grab bar in a bathroom; (b) a bath or shower seat; (c) a bath transfer bench with hand held shower; (d) a tub slide; (e) a bath lift; (f) a bed pan or urinal; (g) a raised toilet seat; (h) a toilet safety frame; (i) a floor-to-ceiling pole in a bathroom; (j) a portable commode chair; 3.6 hospital bed; 3.7 pressure relief mattresses; 3.8 floor or ceiling lift devices; 3.9 positive airway pressure devices; 3.10 orthoses; 3.11 hearing aids.

In its reconsideration decision, the Ministry noted that it reviewed the information received from the Appellant. It also reviewed several sections of the EAPWDR. The Ministry's position is that it can only approve the items specifically authorized by legislation and only if the applicable criteria are met. The Appellant submitted that she needs the items to help with her everyday living. She especially needs the easy wipe.

The Ministry first considered the requirements in EAPWDR Schedule C, section 2(1)(a) and determined that the requested items are not required for one of the purposes set out in section 2(1)(a)(ii). Also, there was no information to establish that the items are necessary to avoid an imminent and substantial danger to health. The Panel finds that there is no evidence that the denied items are for any of the purposes listed in section 2(1)(a)(i) cited above. Nor is there any evidence that the denied items were prescribed by a medical or nurse practitioner, are the least expensive for the purpose and are necessary to avoid an imminent and substantial danger to health. Therefore, the Panel finds that the Ministry reasonably determined that the Appellant was not eligible for the items under this section of Schedule C. The Panel further finds that the Ministry reasonably determined that the Appellant's request did not fall within the list of services in section 2 or the supplements in EAPWDR sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 or 9.

The Ministry also reviewed the list of medical devices authorized under Schedule C sections 3.1 through 3.11 and determined that the denied items do not fall within this list. The Panel finds that based on the evidence the Ministry reasonably determined that the denied items were not one of the devices listed in sections 3.1 through 3.11.

With respect to section 69 of the EAPWDR, the Ministry found that the information provided did not demonstrate that the Appellant faced direct and imminent danger to her health if the denied items are not approved. Even if the criteria in section 69 were met, the Ministry determined that the Appellant was still not eligible for the items because they are not listed in Schedule C, sections 2(1)(a) or section 3 to 3.11. The Panel finds that there is no evidence that the Appellant faced direct and imminent danger to her health if she did not get the denied items. Therefore, the Panel finds that the Ministry reasonably concluded that the Appellant did not meet the requirements of section 69. The Ministry considered all of the applicable sections of the EAPWDR and based on the evidence, it reasonably concluded that the Appellant did not demonstrate that she was eligible for any of the denied items. Therefore, the Panel confirms the reconsideration decision.