

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision made by the Ministry of Social Development (the "Ministry") denying the Appellant, who is a Person with Disabilities, a monthly nutritional supplement for vitamins/minerals and for nutritional items because the Ministry determined that she did not meet the requirements for nutritional supplements as provided for in section 67 of the Employment and Assistance for Persons with Disabilities Regulation. Specifically the Ministry determined that a medical practitioner did not confirm that:

1. The Appellant displayed two or more of the symptoms listed in section 67(1.1)(b);
2. The Appellant requires nutritional items as part of a caloric supplementation to a regular dietary intake to alleviate the symptoms of her chronic, progressive deterioration of health and to prevent an imminent danger to her life as required by section 67(1.1)(c) and (d); and,
3. The Appellant requires vitamin/mineral supplements to alleviate the symptoms of her chronic, progressive deterioration of health and to prevent imminent danger to life as required by section 67(1.1)(c) and (d).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWD) Section 67 and Schedule C section 7.

PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from the Ministry's files indicating that:

- The Appellant is a Person with Disabilities ("PWD") receiving disability assistance.
- The Appellant submitted an application for a monthly nutritional supplement completed by her doctor on June 29, 2012. The doctor confirmed that the Appellant is being treated for a chronic, progressive deterioration of health because of a severe medical condition.

2. Copy of the Appellant's completed supplement application dated June 29, 2012.

3. Letter dated June 19, 2012 from an orthopaedic surgeon stating that the Appellant will undergo total knee replacement on July 26, 2012 and will require a Breg Kodiak cold compression cryocuff post operatively. The surgeon wrote the letter for the Appellant's request for help to buy that unit.

4. Appellant's request for reconsideration with a statement from the Appellant and a copy of her April 13, 2012 supplement application.

In the Ministry's application form for supplements completed on June 29, 2012, the doctor provided the following information about the Appellant's medical conditions and need for the supplements:

- Where the doctor is asked to list the Appellant's severe medical conditions, the doctor wrote under "diagnosis" – osteoporosis describing it as severe bone disease; COPD describing it as severe respiratory disease; and, cardiovascular disease.
- In the section where the doctor is asked to provide details about treatments needed as a direct result of these severe medical conditions, the doctor wrote "multiple specialist/medications, surgery pending in less than one month".
- In the section where the doctor is asked whether the Appellant displays two or more of the seven listed symptoms displayed as a direct result of the chronic, progressive deterioration of health, the doctor wrote next to significant deterioration of a vital organ, "bone health poor, joint health".
- In the section for vitamins or mineral supplementation, the doctor specified vitamin D, calcium and B complex as the vitamins or mineral supplements needed, but did not specify the expected duration of need. To describe how these items will alleviate the specific symptoms identified about, the doctor wrote "improve healing, prevent deterioration".
- The doctor did not fill in the section for describing how the vitamins will prevent imminent danger to the Appellant's health.
- In the section for nutritional items required to alleviate the symptoms identified above, the doctor specified high protein diet, high content vegetables and fruit, and avoid processed food. Again, the doctor did not specify how long these would be needed or how they will prevent imminent danger to life.
- As to how the required nutritional items will alleviate one or more of the symptoms specified above and in the form, the doctor wrote - will improve BMI [Body Mass Index] and nutritional factors to promote health.
- As an additional comment the doctor wrote "great benefit for multiple serious conditions to receive supplemental vitamin, protein, and more access to fresh food".

The Appellant stated in her request for reconsideration that she meets all of the eligibility requirements for the monthly nutritional supplements. She also asked for more time to submit supporting documentation. The Appellant specifically asked the Ministry to consider not just the supplement application dated June 29, 2012 but also the one dated April 13, 2012 that she submitted

with her reconsideration request. The Appellant stated that the April 2012 application indicated that she has significant muscle mass loss and significant deterioration of a vital organ arising from a chronic progressive deterioration of health. She further submitted that when the information from both applications is considered, her doctor confirmed that she needs vitamins and nutritional supplements to alleviate her symptoms and to address an imminent danger to life.

In the Ministry's application form for supplements completed on April 13, 2012, the same doctor provided the following information about the Appellant's conditions and need for supplements:

- Where the doctor is asked to list the Appellant's severe medical conditions, the doctor wrote under "diagnosis" - cardiovascular disease described as history of stroke; and, severe arthritis described as bilateral knee pain requiring replacement.
- In the section where the doctor is asked to provide details about treatments needed for a chronic, progressive deterioration of health as a direct result of these severe medical conditions, the doctor wrote that the Appellant requires an adequate diet with fruits and vegetables, and protein to sustain health and keep muscle strength; otherwise she may lose functional independence.
- In the section listing symptoms displayed as a direct result of that chronic and progressive deterioration of health, the doctor wrote next to the symptom of significant muscle loss - "severe arthritis, poor ability to walk"; and next to the symptom of significant deterioration of a vital organ - "severe cardiac disease with stroke, severe peripheral vascular disease".
- In the section for vitamin/mineral supplements needed to alleviate one or more of the above specified symptoms, the doctor wrote multivitamins, vitamin D supplements for adequate bone health, and omega fatty acid, but specified no duration for these.
- To describe how these items will alleviate the specific symptoms identified, the doctor wrote "Improve bone health. Known to improve cardiac health."
- In the section for nutritional items that are needed to alleviate one or more of the symptoms specified above, that are medically essential and that will provide caloric supplementation to a regular dietary intake and are required to prevent imminent danger to the Appellant's life, the doctor wrote "high protein diet" and "increase in fruits and vegetables"
- To describe how the nutritional items will alleviate one or more of the symptoms specified above and provide caloric supplementation to the regular diet, the doctor wrote "increase protein to maintain strength and muscle mass".
- To describe how the nutritional items would prevent imminent danger to the Appellant's life, the doctor wrote "adequate diet with fruits and vegetables can help cardiac disease."
- As additional comments the doctor wrote that the Appellant sees multiple specialists for progressive, chronic health problems; living in poverty on disability; unable to afford adequate diet; good diet is essential to avoid significant deterioration of health and for good heart health.

With her notice of appeal, the Appellant submitted a letter dated September 28, 2012 from her doctor who also completed the April 2012 and June 2012 nutritional supplement applications. At the hearing, the Appellant's advocate stated that the doctor wrote the letter. In that letter, the doctor asked that it be considered a letter of advocacy in this appeal and stated that the Appellant is in dire need of the supplements. The doctor provided the following assessment of the Appellant's conditions:

- She has complex medical conditions with significant deterioration of vital organs and muscle mass loss as a direct result of chronic medical conditions that cause a progressive

deterioration of health.

- She has disease in her cardiac, respiratory, neurologic and musculoskeletal systems.
- She requires access to nutritional items that will increase her caloric intake as she continues to lose weight and muscle mass over the last 3 months. She also requires micronutrients in the form of supplements, fresh fruits and vegetables to manage her chronic cardiovascular, respiratory and joint problems.
- The improved diet will help alleviate symptoms of fatigue, pain and progressive loss of function.
- For caloric intake, her continued weight loss and muscle mass loss is an imminent danger to life as she requires all her ability to rehabilitate now after a major joint surgery. Without this intervention she will deteriorate; worried about her ability to heal and avoid infections.
- Vitamins and minerals are essential for all health and will help with her bone health and joint problems. She will benefit from a multitude of supplements. Currently her psychological stress is worsened by lack of food and nutrition. This, itself is a risk factor for major disease.
- Both caloric and vitamin and mineral supplements will prevent "imminent danger to life" and help relieve symptoms and prevent further deterioration.

At the hearing, the Appellant's advocate submitted oral and written argument. Those are set out in Part F of this decision. The Appellant also described some of her conditions. She said she had major surgery in July 2012, a total knee replacement. The Appellant stated this was related to her arthritis. She has been in rehabilitation since the surgery. The Appellant said her conditions had been getting progressively worse for over ten years. As for her heart condition, the Appellant stated that she is taking medications. She already had a stroke in May. Her doctor told her she has to have vitamins and a high protein diet. She also has to eat more fruits and vegetables. The Appellant acknowledged that she will never recover completely and her doctor said that if she doesn't take care of her health she will die sooner. The Appellant said that her doctor advised her to have the requested supplements to stabilize her conditions and to reduce the rate of deterioration. The Appellant added that she has a hard time getting around so people helped her and she is limited in her ability to do daily living tasks.

The Ministry did not object to the admissibility of the September 28, 2012 letter from the Appellant's doctor. The Panel finds that the information in that letter and the Appellant's oral testimony at the hearing relate to information the Ministry had at reconsideration regarding the Appellant's health conditions and need for supplements. Therefore, pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits into evidence that letter and the Appellant's testimony as being in support of the evidence the Ministry had at reconsideration.

At the hearing the Ministry relied on and reaffirmed its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably determined that the Appellant, a Person with Disabilities, was not eligible for a monthly nutritional supplement for vitamins/minerals and for nutritional items because she did not meet the requirements in section 67 of the EAPWDR; and specifically whether the Ministry reasonably determined that a medical practitioner did not confirm that:

1. The Appellant displayed two or more of the symptoms listed in section 67(1.1)(b);
2. The Appellant requires nutritional items as part of a caloric supplementation to a regular dietary intake to alleviate the symptoms of her chronic, progressive deterioration of health and to prevent an imminent danger to her life as required by section 67(1.1)(c) and (d); and,
3. The Appellant requires vitamin/mineral supplements to alleviate the symptoms of her chronic, progressive deterioration of health and to prevent imminent danger to life as required by section 67(1.1)(c) and (d).

The following sections of the EAPWDR apply to this appeal:

67 (1) The minister may provide a nutritional supplement in accordance with section 7 [*monthly nutritional supplement*] of Schedule C to or for a person with disabilities in a family unit who receives disability assistance under

(a) section 2 [*monthly support allowance*], 4 [*monthly shelter allowance*], 6 [*people receiving room and board*] or 9 [*people in emergency shelters and transition houses*] of Schedule A, or

(b) section 8 [*people receiving special care*] of Schedule A, if the special care facility is an alcohol or drug treatment centre,

if the minister is satisfied that

(c) based on the information contained in the form required under subsection (1.1), the requirements set out in subsection (1.1) (a) to (d) are met in respect of the person with disabilities,

(d) the person is not receiving a supplement under section 2 (3) [*general health supplement*] of Schedule C,

(e) the person is not receiving a supplement under subsection (3) or section 66 [*diet supplements*],

(f) the person complies with any requirement of the minister under subsection (2), and

(g) the person's family unit does not have any resources available to pay the cost of or to obtain the items for which the supplement may be provided.

(1.1) In order for a person with disabilities to receive a nutritional supplement under this section, the minister must receive a request, in the form specified by the minister, completed by a medical practitioner or nurse practitioner, in which the practitioner has confirmed all of the following:

(a) the person with disabilities to whom the request relates is being treated by the practitioner for a chronic, progressive deterioration of health on account of a severe medical condition;

(b) as a direct result of the chronic, progressive deterioration of health, the person displays two or more of the following symptoms:

(i) malnutrition;

(ii) underweight status;

(iii) significant weight loss;

(iv) significant muscle mass loss;

(v) significant neurological degeneration;

(vi) significant deterioration of a vital organ;

(vii) moderate to severe immune suppression;

(c) for the purpose of alleviating a symptom referred to in paragraph (b), the person requires one or more of the items set out in section 7 of Schedule C and specified in the request;

(d) failure to obtain the items referred to in paragraph (c) will result in imminent danger to the person's life.

Schedule C

In its reconsideration decision, the Ministry reviewed the monthly nutritional supplement criteria listed in section 67(1.1) of the EAPWDR. The Ministry decided to determine the Appellant's eligibility using the latest supplement application dated June 29, 2012 rather than the application from April 13, 2012, included with the request for reconsideration. The Ministry noted that the doctor, who completed the June 29, 2012 supplement request form, confirmed that the Appellant is being treated for a chronic, progressive deterioration of health because of these severe medical conditions - osteoporosis, COPD and cardiovascular disease.

The Ministry pointed out that for a person with disabilities to receive a nutritional supplement the person must display two or more of the symptoms listed in section 67(1.1)(b). The Ministry noted that the doctor reported the Appellant's symptom as significant deterioration of a vital organ – bone health poor, joint health. Therefore, the Ministry determined, that the Appellant displayed only one of the symptoms listed in section 67(1.1)(b); that is, significant deterioration of a vital organ, which may be the Appellant's heart and thus the criteria in section 67(1.1)(b) was not met.

The Ministry also decided that the Appellant did not require vitamin/mineral supplementation to alleviate the symptoms of her chronic, progressive deterioration of health and to prevent imminent danger to life. The Ministry noted that the doctor reported that the Appellant needs vitamin D, calcium and B complex vitamins, but the doctor did not indicate for how long these would be needed. Also, although the doctor reported that these vitamins would improve the Appellant's healing and prevent deterioration, the Ministry found that the doctor did not indicate that these vitamins would prevent imminent danger to the Appellant's health. Therefore, the Ministry determined that the Appellant also did not meet the criteria in section 67(1.1)(d).

With respect to the Appellant's request for nutritional items, the Ministry reviewed the doctor's report that the Appellant needs a high protein diet, high content vegetables and fruit, and to avoid processed food. The doctor did not indicate how long this diet would be needed. The Ministry also noted that the doctor did not report that the Appellant has a medical condition that results in the inability to absorb sufficient calories to satisfy daily requirements through regular dietary intake. The doctor indicated that the requested nutritional items would alleviate one or more symptoms and provide caloric supplementation to the Appellant's regular diet by improving her BMI and to promote health. However, the Ministry noted that the doctor did not indicate for which symptoms the nutritional items would be beneficial. The Ministry also noted that the doctor did not indicate that the requested nutritional items will help prevent imminent danger to her life to the Appellant's life. Therefore, the Ministry determined that the Appellant did not meet the criteria in section 67(1.1) for the requested nutritional items.

The Appellant argued that the Ministry's reconsideration decision should be rescinded because the Ministry was unreasonable when it failed to consider only the June 29, 2012 supplement application and not the April 13, 2012 supplement application as well. The Appellant submitted that combined information in both forms from the same doctor met the criteria in section 67 of the EAPWDR. In addition, when all of the information in the April 13, 2012 application, in the June 29, 2012 application and in the September 28, 2012 letter is considered, the Appellant meets the criteria in section 67 of

the EAPWDR for nutritional supplements.

The Appellant pointed out that she specifically submitted the April 13, 2012 supplement application with the request for reconsideration so that the Ministry would consider all of the doctor's information; that is, the April 2012 application together with all of the information in the June 2012 form. When considered together, the doctor confirmed that as a direct result of the chronic, progressive deterioration of the Appellant's health, she displays two or more of the symptoms listed in section 67(1.1)(b). The Appellant pointed out that in the April 2012 application the doctor cited two symptoms - significant muscle mass loss and significant deterioration of a vital organ (severe cardiac disease with stroke, severe peripheral vascular disease). In the June 2012 application, the doctor cited significant deterioration of a vital organ, specifically bone health/joint health.

The Appellant acknowledged that the information in the June 2012 application did not exactly match the information in the April 2012 application. However, the Appellant argued that all her medical conditions are chronic, progressively deteriorating and continuing, including the cardiac disease the doctor diagnosed both times. The chronic medical conditions described in April 2012 did not go away in June 2012. The Appellant stated that she is still being treated for all of the conditions listed in both applications as evidenced by the September 2012 letter. The Appellant also pointed out that in the April 2012 application the doctor did describe how the requested nutritional items would prevent imminent danger to the Appellant's life, by helping with cardiac disease. Therefore, this criteria in section 67(1.1)(d) was satisfied.

The Appellant's advocate explained that the doctor had limited time to put additional information together for the reconsideration decision. However, that doctor was willing to provide more information about the Appellant's chronic, progressively deteriorating conditions and her need for supplements. Therefore, the doctor wrote the September 2012 letter for this appeal. In that letter the doctor stated that the Appellant has complex medical conditions with significant deterioration of vital organs and muscle mass as a direct result of chronic medical conditions that cause a progressive deterioration of health. The doctor also wrote that the Appellant has disease in her cardiac, respiratory, neurologic and musculoskeletal systems. The Appellant argued that these conditions are the same as the doctor described in April 2012 and in June 2012. These conditions did not go away; they are evidence of her continuous chronic health conditions.

The Appellant submitted that the information to show there was an imminent danger to death may not have been that clear in June 2012, or even in April 2012. However, there is a clear statement by the doctor in the September 2012 letter. The doctor wrote that for caloric intake, her continued weight loss and muscle mass loss is an imminent danger to life, as she requires all her ability to rehabilitate now after a major joint surgery. Without this intervention, the doctor wrote that the Appellant will deteriorate and the doctor is worried about her ability to heal and avoid infections. The Appellant submitted that these statements together with the April 2012 reference to help with cardiac disease, demonstrate that the doctor absolutely believes that the Appellant meets the criteria in section 67.

The Appellant also submitted that the doctor described which symptoms would be alleviated by the supplements. In addition to the specific descriptions in the April and June 2012 applications, the Appellant referred to the doctor's statements in the September 2012 letter. The doctor wrote that to address weight loss and muscle mass, caloric intake was needed. The doctor also indicated that vitamins and minerals are essential for all health and will help with bone health and joint problems.

Section 67(1.1) sets out the specific requirements the Appellant must satisfy to be eligible for nutritional supplements. The Panel finds that in its reconsideration decision the Ministry reviewed all of those requirements. The Ministry also considered all of the information in the June 29, 2012 application, but not in the April 13, 2012 application. The Panel finds that the Appellant specifically provided April 2012 application to the Ministry with her request for reconsideration so that the Ministry would consider the whole trail of information from the doctor. The Appellant expected the Ministry to view the applications as a combined request because all of her chronic health conditions are continuing. The Panel finds that the information from the doctor in the April 2012 application together with the June 2012 application is a continuing explanation of the Appellant's chronic medical conditions and nutritional supplement needs. This is evident from the description of the Appellant's circumstances in the doctor's September 2012 letter, a description that repeats and summarizes what the doctor reported in April and June. The Appellant's chronic health conditions and the need for supplements described in April did not go away in June or in September 2012. The Ministry also did not provide any reasons for not considering the information from April. Therefore, the Panel finds that it was not reasonable for the Ministry to ignore the information in the April 13, 2012 application when it made its reconsideration decision.

The Panel admitted the September 2012 letter as being in support of the evidence that was before the Ministry at reconsideration. It therefore finds that when considered together, the April 2012 application, the June 2012 application and the September 2012 letter, provide the doctor's confirmation and description of the Appellant's ongoing chronic medical conditions and continuing deterioration of her health. The same doctor completed all three reports specifically to support the Appellant's application for nutritional supplements. The Panel also notes that there is no dispute that the doctor is treating the Appellant for a chronic, progressive deterioration of health.

With respect to the issue of whether the Ministry reasonably determined that the doctor only identified one of the symptoms listed in section 67(1.1)(b), the Panel will first review the severe medical conditions reported by the doctor in the three reports and then symptoms the doctor identified as displayed by the Appellant as a direct result of her chronic, progressive deterioration of health. First in April 2012, the doctor listed cardiovascular disease (history of stroke) and severe arthritis as the diagnosis under severe medical conditions. The Panel notes that the list of symptoms in the Ministry's application form mirrors the list of symptoms in section 67(1.1)(b) of the applicable regulation. In the form, next to the listed symptom of "significant muscle mass loss" the doctor wrote "severe arthritis, poor ability to walk". Next to the listed symptom of "significant deterioration of a vital organ", the doctor specified "severe cardiac disease with stroke, severe peripheral vascular disease". The doctor also wrote that the Appellant needed an adequate diet to keep her muscle strength otherwise; she may lose functional independence. Based on this information from the doctor, the Panel finds that in April 2012 the doctor identified two of the required symptoms and directly related them to the severe medical conditions described in the form. The doctor related the symptom of significant muscle mass loss to the severe medical condition of severe arthritis. The symptom of significant deterioration of a vital organ the doctor related to the severe medical condition of severe cardiac disease.

In the June 2012 application, the doctor listed the Appellant's severe medical conditions as osteoporosis (severe bone disease), COPD (severe respiratory disease) and cardiovascular disease. The Panel notes that the latter severe medical condition also was reported in April 2012. In June 2012, the doctor wrote next to the symptom of significant deterioration of a vital organ "bone health

poor, joint health. The Panel finds that this symptom relates directly to the severe medical condition of osteoporosis described by the doctor as "severe bone disease." Then in September 2012, the doctor repeated that the Appellant has the symptoms of significant deterioration of vital organs and muscle mass loss as a direct result of chronic medical conditions causing a progressive deterioration of health. The doctor wrote that the Appellant has disease in her cardiac, respiratory, neurologic and musculoskeletal systems. The Panel finds that the doctor's descriptions of the Appellant's diseases, particularly to her cardiac and musculoskeletal systems, and the symptoms described in September 2012 are consistent with the combined descriptions in June and in April 2012. The doctor not only identified two of the symptoms listed in section 67(1.1)(b), he specifically related them to the Appellant's severe medical conditions. Therefore, the Panel finds that based on all of the evidence it was not reasonable for the Ministry to determine that the doctor confirmed that only one of the symptoms in section 67(1.1)(b) related to one of the Appellant's severe conditions.

The Ministry's application form has a section in which the medical practitioner specifies vitamins or mineral supplements needed and another section to specify nutritional items needed to alleviate the symptoms specified in the application. In each section, the medical practitioner is asked to describe how the requested supplement will alleviate the specific symptoms identified and how the item will prevent imminent danger to the applicant's life. These parts of the form address the requirements in section 67(1.1)(c) and (d) of the EAPWDR.

First, with respect to any vitamins/mineral supplements that the Appellant may need, in the April 2012 application, the doctor specified multivitamins, vitamin D supplements for adequate bone health, and omega fatty acid. As to how these items will alleviate the specific symptoms, the doctor wrote these would improve bone health and are known to improve cardiac health. The doctor had specified significant muscle mass loss (severe arthritis, poor ability to walk) and significant deterioration of a vital organ (severe cardiac disease with stroke/severe vascular disease) as the two symptoms these vitamins and nutritional items would alleviate. In the June 2012 application, the doctor identified vitamin D, calcium and B complex as the vitamin/mineral supplements needed to alleviate the specified symptom of significant deterioration of a vital organ (bone health/joint health). The doctor also wrote these would alleviate the symptom by improving healing and preventing deterioration. In the September 2012 letter, the doctor wrote that vitamins and minerals are essential for the Appellant's health and will help with bone health and joint problems; that is, the significant deterioration of the vital organ specified in June 2012. The doctor also wrote that the Appellant needs micronutrients in the form of supplements, and fresh fruits and vegetables to manage her chronic cardiovascular, respiratory and joint problems. Based on the doctor's combined reports about the vitamins/minerals needed to alleviate the symptoms and the severe medical conditions he specified, the Panel finds that it was not reasonable for the Ministry to determine that the Appellant did not satisfy the requirements in section 67(1.1)(c) for a vitamin/mineral supplement.

As to how vitamin/mineral supplements will prevent imminent danger to the Appellant's life, the doctor did not complete the applicable section in the April or the June 2012 application forms. In the September 2012 letter, the doctor made the following statement: "Both caloric and vitamin and mineral supplementation will prevent "imminent danger to life" and will help relieve symptoms and prevent further deterioration." By itself, without any specifics about what symptoms are being referred to or how the supplements will prevent this occurrence, the Panel gives this statement little weight. The doctor did provide additional details about the Appellant's progressive deterioration, including symptoms and disease to her cardiac, respiratory, neurologic and musculoskeletal systems.

The doctor also stated, "For caloric intake her continued weight loss and muscle mass loss is an imminent danger to life as she requires all her ability to rehabilitate now after a major joint surgery". The doctor stated he was worried about her ability to heal and avoid infections. However, the Panel finds that the doctor did not specify how the vitamins/minerals he identified in his reports would prevent imminent danger to life due to continued weight loss and muscle mass loss, or because of worries about healing and avoiding infections. In addition, the evidence in the record is that the Appellant's surgery took place in July 2012 and this letter was written in September 2012, at least two months later and therefore not an indication of imminence. Based on all of this evidence, the Panel finds that with respect to the need for vitamin/mineral supplements the Ministry reasonably determined that the Appellant did not establish that those supplements will prevent imminent danger to her life, as required by section 67(1.1)(d).

As for the Appellant's need for nutritional supplements, in the April 2012 application, the doctor specified a high protein diet and increased fruit and vegetables in the section asking about nutritional items that are medically essential and that will provide caloric supplements to a regular diet. The doctor wrote that these would increase protein to maintain strength and muscle mass. In June 2012, the doctor wrote in the same section that a high protein diet, high content vegetables and fruit and avoiding processed food would improve the Appellant's BMI and nutritional factors to promote health. Then in the September 2012 letter, the doctor stated that to address the Appellant's weight loss and muscle mass loss, caloric intake was needed, but the doctor did not specify what supplements would provide additional calories. The doctor also wrote that the Appellant requires micronutrients in the form of supplements, and fresh fruits and vegetables to manage her chronic cardiovascular, respiratory and joint problems. The Panel notes that in each report the doctor described general dietary needs, such as more fruit and vegetables or micronutrients, rather than specific nutritional supplements in addition to a regular dietary intake to alleviate any of the specific symptoms he identified. The doctor only wrote that an improved diet will help alleviate symptoms of fatigue, pain and progressive loss of health. When all of this evidence is considered together, the Panel finds that the Ministry reasonably determined that the Appellant did not satisfy the requirements in section 67(1.1)(c) for nutritional items.

With respect to the question whether the doctor confirmed that nutritional items are required to prevent imminent danger to the Appellant's life, in April 2012 the doctor wrote that an adequate diet with fruits and vegetables can help with cardiac disease. In the June 2012 form, the doctor left the section regarding imminent danger to life blank for nutritional items. Based on these two reports, the Panel finds that the doctor provided no information about an imminent risk to the Appellant's life or how an adequate diet would alleviate such a risk. In addition, the Panel's findings in the section above regarding the doctor's September 2012 statements about how supplements would prevent imminent danger to the Appellant's life, also apply to the Appellant's need for nutritional items. Therefore, based on all of the evidence in the April 2012 and June 2012 applications together with the doctor's September 2012 letter, the Panel finds that the Ministry reasonably determined that the Appellant did not satisfy the requirement in section 67(1.1)(d) for nutritional items.

The Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments. Therefore, it confirms that decision.