

### PART C – Decision under Appeal

The decision under appeal is the reasonableness of the Ministry's reconsideration decision dated November 2, 2012, denying the Appellant's request for \$31.00 to cover the cost of crutches because the appellant had not received the pre-authorization of the minister as required under section 3(1)(b)(i) of Schedule C the Employment and Assistance for Persons with Disabilities Regulation . The Ministry also found that the Appellant was not eligible for the crutches under section 69 of the Regulation.

### PART D – Relevant Legislation

The relevant legislation is section 3 of Schedule C to the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and section 69 of the EAPWDR.

**PART E – Summary of Facts**

On September 22, 2012, the Appellant missed his step exiting a bus. He was transported to hospital where he was diagnosed with a sprained right ankle. He was provided with crutches and an invoice for \$31.00 for the crutches. It is the Appellant's testimony that he told the hospital staff that he could not afford the charge, but that he had no choice but to take the crutches.

On September 24, 2012, the Appellant submitted the hospital report to the Ministry. It is the Appellant's testimony that he was told by Ministry staff not to worry about the \$31.00 charge.

On October 15, 2012, the Appellant received an invoice from the hospital for \$31.00 for the crutches. The Appellant gave this invoice to the Ministry.

On October 18, 2012, the Appellant received a letter from the Ministry stating that the Ministry could not pay the \$31.00 charge because the legislation requires that all requests for medical equipment be pre-authorized by the Ministry.

At the hearing the Appellant reviewed the facts and confirmed that he was never informed as to how to obtain pre-authorization for medical equipment outside Ministry office hours. The Ministry maintained its position, but described how after-hours pre-approval is obtained and stated that it was unfortunate that the Appellant was not notified of it by hospital staff as is the usual practice.

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry's reconsideration decision dated November 2, 2012 to deny the Appellant a health supplement for crutches.

The relevant legislation is from section 3 of Schedule C EAPWDR and from section 69 of the EAPWDR:

### 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.

### Health supplement for persons facing direct and imminent life threatening health need

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).

At reconsideration, the Ministry not only confirmed the original decision regarding section 3 of Schedule C, but also considered whether the Appellant's request could be accommodated under section 69 of the EAPWDR. This section allows the Minister to provide certain health supplements to persons who are not otherwise eligible, as in the case here where there has been no pre-authorization. The Ministry's conclusion in this regard was that the request did not qualify, as the Appellant was not facing "a direct and imminent life threatening need" as required by section 69.

At the hearing, the Appellant submitted that, as his injury happened on a Saturday when Ministry offices are closed, he could not possibly have obtained pre-approval for the \$31.00 charge. The Ministry informed the Appellant and the panel that the Ministry operates an "after hours" telephone line which is available at all times to deal with emergency situations, including providing pre-approvals and that the ministry has arranged for hospital staff to inform social assistance recipients of the availability of this line. The Appellant stated that at no time did hospital staff mention this line to him although they were aware that he was a recipient of social assistance.

As regards the application of section 3 of Schedule C of the EAPWDR, the Panel finds that pre-approval is required by the legislation and was not obtained by the Appellant. It is unfortunate that staff at the hospital did not inform the Appellant of the Ministry's after-hours line. The Panel also considers that it would have been helpful if the availability of the after-hours line had been mentioned in the original and reconsideration decisions.

As regards the application of section 69 of the EAPWDR, the panel finds the injury to the Appellant's ankle cannot be characterized as "a direct and imminent life threatening need". As this is a requirement in order to qualify for a health supplement under this section, the charge for the crutches does not qualify.

As the Appellant has not met the legislated criteria under section 3 of the Schedule C of the EAPWDR, nor section 69 of the EAPWDR in order to qualify for a health supplement, the panel finds that the Ministry's determination that the Appellant was not eligible to receive a health supplement to pay for crutches was a reasonable application of the applicable legislation.

Accordingly, the Panel confirms the Ministry's decision.