

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated November 5, 2012 which held that the appellant was not eligible for a health supplement for repairs of medical equipment, or a medical device, in this case the appellant's scooter, that was previously provided by the minister because the appellant did not obtain pre-authorization of the minister before paying for the repairs as set out in EAPWDR Schedule C, Section 3(1)(b). The ministry further noted that the repairs did not fall within the exception set out in EAPWDR Section 69 Health supplement for persons facing direct and imminent life threatening health need.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)

Section 62, Schedule C, Section 3 Medical equipment and devices and Section 3.4 Medical equipment and devices – scooters and

Section 69 Health supplement for persons facing direct and imminent life threatening health need

PART E – SUMMARY OF FACTS

The evidence before the minister at reconsideration included:

- a receipt dated August 30, 2012 made out to the appellant's mother, itemizing the repairs done to the scooter showing a total of \$520.20 invoiced and paid;
- a credit card receipt of the same date and the same amount;
- ministry computer records noting calls on September 17th and 19th regarding reimbursement for the scooter repairs; and
- the appellant requires the scooter to go outdoors.

At the hearing, the appellant's representative provided the following information in support of evidence before the Reconsideration Appeal:

- the appellant is an adult, living with her parents,
- the appellant is a person with disabilities; and
- the appellant has a wheelchair which she uses indoors.

The panel determined the additional oral evidence was admissible under section 22(4) of the Employment and Assistance Act as it was in support of the records before the minister at reconsideration.

The panel finds that the appellant is a person with disabilities within the meaning of the legislation. In August of this year, the appellant's scooter was in need of repairs. The repairs were completed and paid for by the appellant's mother. On September 17th the appellant's mother contacted the ministry by phone to enquire about being reimbursed for the repairs. On September 19th the ministry responded informing the appellant's mother that the request was denied.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry acted reasonably in determining the appellant was not eligible for a health supplement for repairs of her scooter because the appellant did not obtain pre-authorization of the minister before paying for the repairs as set out in EAPWDR Schedule C, Section 3(1)(b) and that the repairs did not fall within the exception set out in EAPWDR Section 69 Health supplement for persons facing direct and imminent life threatening health need.

The relevant legislation is set out in the EAPWDR, Section 62, Schedule C Health Supplements as follows:

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 3.12 of this Schedule are the health supplements that may be provided by the minister if (B.C. Reg. 197/2012)

(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 or section 3.12, 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.C. Reg. 197/2012)

(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.

(2.1) For medical equipment or devices referred to in section 3.9 (1) (b) to (g), in addition to the requirements in that section 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 a respiratory therapist, occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

(B.C. Reg. 197/2012)

(3) Subject to subsection (6), the minister may provide as a health supplement a replacement of medical equipment or medical device, previously provided by the minister under this section, that is damaged, worn out or not functioning if

(a) it is more economical to replace than to repair the medical equipment or device previously provided by the minister, and

(b) the period of time, if any, set out in sections 3.1 to 3.12 of this Schedule, as applicable, for the purposes of this paragraph, has passed. (B.C. Reg. 197/2012)

(4) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was previously provided by the minister if it is more economical to repair the

medical equipment or device than to replace it.

(5) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was not previously provided by the minister if

(a) at the time of the repairs the requirements in this section and sections 3.1 to 3.12 of this Schedule, as applicable, are met in respect of the medical equipment or device being repaired, and (B.C. Reg. 197/2012)

(b) it is more economical to repair the medical equipment or device than to replace it.

(6) The minister may not provide a replacement of medical equipment or a medical device under subsection (3) or repairs of medical equipment or a medical device under subsection (4) or (5) if the minister considers that the medical equipment or device was damaged through misuse.

(B.C. Reg. 61/2010)

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 3.12, other than paragraph (a) of section 3 (1).

(B.C. Reg. 61/2010) (B.C. Reg. 197/2012)

At the hearing the appellant's mother stated that the appellant needs the scooter to go anywhere outdoors, she has a wheelchair for use indoors but it does not function adequately on outdoor terrain. When the appellant's scooter was in need of repair, the appellant's mother called the company that supplied the scooter (the supplier) to get it fixed. The supplier is located in another city but had a truck in the appellant's city on that day so was able to pick-up the scooter. The appellant's mother stated she was asked by the supplier how the repairs would be paid for; in response she gave the supplier her credit card number. The repairs were done in a rushed way because the supplier's truck was in their city that day. The appellant's mother, on behalf of the appellant, argues the supplier should have informed them of the need to get pre-approval and submit forms to the ministry. She argues they were unaware of the process and consideration should be given because the expense is a significant portion of the appellant's monthly \$856.42 benefit.

The ministry reiterated the reason the reimbursement was denied was because the appellant had not received pre-authorization to get the repairs in accordance with the legislation. When asked what typically happens the ministry representative stated that if the ministry is contacted in advance, then the ministry can provide information.

While it was unfortunate the appellant and her mother were unaware of the requirements set out in the legislation that is not sufficient reason to rescind the ministry's decision. The panel finds the ministry's determination that the appellant did not receive pre-authorization

from the ministry before paying for the repairs to the scooter as set out in EAPWDR Section 62, Schedule C, Section 3(1)(b)(i) was reasonable.

Neither the appellant nor her mother put forward the position that the appellant's situation falls within the exception set out in EAPWDR Section 69 Health supplement for persons facing direct and imminent life threatening health need. The panel confirms that EAPWDR, Section 69 does not apply.

In view of the reasons set out above, the panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and thus confirms the decision.