

PART C – Decision under Appeal

In a reconsideration decision dated 04 June 2013, the Ministry denied the Appellant 's request for a blood pressure monitor (BPM) because it found the BPM does not meet the legislated criteria as a medical supply, medical equipment, a health supplement, therapy, or other health supplements as set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Section 69 or in Schedule C.

PART D – Relevant Legislation

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

PART E – Summary of Facts

Preliminary Matter: The Appellant submitted two letters after the reconsideration decision.

- A letter dated June 11, 2013 from the Appellant's general practitioner stating the Appellant lives on her own and is under her care, as well as under the care of a cardiologist and an internist for treatment of diabetes and hypertension. The letter states the Appellant has had a heart attack and if her blood pressure values increase, she will have a direct and imminent danger of another attack. It concludes that a BPM is critical to the Appellant's health management and potential life threatening condition.
- A letter dated June 26, 2013 from the Appellant's cardiologist stating it is crucial that the Appellant monitor her blood pressure so as not to further worsen her coronary artery disease or accelerate the effects of her diabetes. It concludes that a home BPM will be very important to monitor blood pressure and give indications to make changes to the Appellant's medications in order to achieve an optimal blood pressure.

The Ministry had reviewed the letters and had no objections to them. The Panel finds the letters are in support of the medical information before the Ministry at the time of the reconsideration decision and admits both letters as evidence under the Employment and Assistance Act, Section 22(4)(b).

The evidence before the Ministry at the time of the reconsideration decision included:

- A letter dated April 4, 2013 from the Appellant's cardiologist stating it is crucial that she monitor her blood pressure and suggests she get a home BPM.,
- A prescription for a BPM dated May 30, 2013 from the Appellant's cardiologist.

In the Request for Reconsideration, the Appellant states her resources are not enough to purchase a BPM. She states that she has had two heart attacks and has had two stents put in. She says due to her cardiac condition, a drop in her blood pressure is dangerous and she considers the BPM is an urgent medical device.

In her reasons for appeal, the Appellant states she faces a direct and imminent danger to her health if a BPM is not made available to her and that a BPM is required for limb circulation care.

In the Reconsideration Decision, the Ministry states the Appellant is a recipient of disability assistance and therefore eligible to receive the health supplements provided for in Section 62 and Schedule C of the EAPWDR however the item requested does not meet the eligibility criteria set out in that legislation.

At the hearing the Advocate submitted a BPM can be defined as a medical supply for the purpose of limb circulation care because it monitors blood flow and circulation. The Appellant explained that she has a multitude of serious medical conditions, that the need to monitor the effects of her medications on her blood pressure is crucial and that the BPM is critical to her. She stated that her specialist has confirmed her condition and confirmed the importance of monitoring her blood pressure.

At the hearing the Ministry stated it is sympathetic and acknowledges the seriousness of the Appellant's medical conditions and from the medical information in the letters of June 11 and June 26, 2013, also acknowledges that this evidence demonstrates the Appellant could face a direct and imminent danger to her health if a BPM is not made available to her.

PART F – Reasons for Panel Decision

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant's request for a blood pressure monitor (BPM) because it found the BPM does not meet the legislated criteria as a medical supply, medical equipment, a health supplement, therapy, or other health supplements as set out in EAPWDR, Section 69 or Schedule C. The criteria for health supplements is set out in the EAPWDR, Section 62, 69 and Schedule C (relevant parts) as follows:

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,

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;

(a.1) the following medical or surgical supplies that are, at the minister's
discretion, either disposable or reusable, if the minister is satisfied that all
the requirements described in paragraph (a) (ii) and (iii) are met in relation to
the supplies:

(i) lancets;

(ii) needles and syringes;

(iii) ventilator supplies required for the essential operation or
sterilization of a ventilator;

(iv) tracheostomy supplies;

(a.2) consumable medical supplies, if the minister is satisfied that all of the
following requirements are met:

(i) the supplies are required to thicken food;

(ii) all the requirements described in paragraph (a) (ii) and (iii) are
met in relation to 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,

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

(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.*

The Appellant and her Advocate argue that a BPM is an eligible medical supply because it can be defined as a requirement for limb circulation care. Furthermore, medical information from the Appellant's general practitioner and cardiologist confirm the Appellant faces a direct and imminent life threatening need without the BPM.

The Ministry representative at the hearing conceded that the medical information suggests that the Appellant may face a direct and imminent life threatening need as a result of her many health issues however the decision under appeal for the Panel is the Reconsideration Decision which argues the information does not establish a direct and imminent life threatening need as per the criteria in the EAPWDR, Section 69. The Ministry also argues that the BPM does not meet the eligibility under any sections of Schedule C in the EAPWDR, specifically it does not aid in limb circulation, rather it measures or monitors blood pressure.

The Panel finds the medical information submitted by the Appellant's general practitioner and cardiologist confirms the Appellant faces a direct and imminent life threatening need without the BPM and the Ministry was not reasonable to find the Appellant ineligible for a health supplement for that reason under Section 69 of the EAPWDR in the Reconsideration Decision. However, Section 69 of the EAPWDR only provides for any health supplements as set out in Section 2(1)(a) or (f) and Sections 3 to 3.12 of Schedule C.

Section 2(1)(a)(i) of Schedule C specifies that medical supplies must be required for specific purposes as defined in Section 2(1)(a)(i)(A) through (F). Subsection (F) specifies limb circulation care. The Panel finds a BPM is a monitoring device for blood pressure, not a limb circulation care supply as defined in Subsection F. The Panel finds the Ministry reasonably determined the BPM is not an eligible medical supply as defined in Subsection (F) or the remaining subsections (A) through (E).

The Panel finds the Ministry reasonably determined that the BPM does not fall into the description of therapy or one of the remaining health supplements such as lancets, needles and syringes, ventilator supplies, tracheostomy supplies or consumable medical supplies as defined in EAPWDR, Schedule C, Section 2.

The Panel finds the Ministry reasonably determined that the BPM is not within the eligible criteria because it does not fall into the description of medical equipment such as a cane, a crutch, a walker,

a wheelchair, a scooter, a grab bar, bath or shower seat or bench, a bath lift, a bed pan, a urinal, a raised toilet seat, a bathroom pole, a portable commode chair, a hospital bed, a pressure relief mattress, a floor or ceiling lift device, a positive airway pressure device, a custom-made or off-the-shelf foot orthotic, a hearing aid or a non-conventional glucose meter as defined in EAPWDR, Schedule C, Section 3.1 – 3.12.

The Panel also finds the BPM does not fall into the descriptions of supplements described as dental supplements, emergency dental supplements, diet supplements, monthly nutritional supplement, natal supplement or infant formula in Sections 4 through 9, and that the Ministry reasonably determined the BPM is not eligible as one of the remaining supplements as set out in EAPWDR, Schedule C, Sections 4 – 9.

The Panel finds the Ministry decision was a reasonable application of the applicable enactment in the circumstances of the Appellant and confirms the decision.