

APPEAL #

### PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (the ministry) dated April 23, 2013, which denied the appellant's request for a Medical Alert Bracelet. The ministry determined that the appellant did not meet the program criteria because a Medical Alert Bracelet is an ineligible item listed in Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

### PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities (EAPWD) Regulation, sections 62 and 69  
Employment and Assistance for Persons with Disabilities Regulation, Schedule C

## PART E – Summary of Facts

Information and records before the ministry at the time of their Reconsideration Decision included the following:

- A copy of the appellant's Request for Reconsideration signed by the appellant April 13, 2013.

Ministry records report that the appellant is in receipt of disability assistance and is eligible to receive supplements provided under section 62 and Schedule C of the EAPWD Regulation.

In section 3 of the appellant's Request for Reconsideration she provides argument as to why she believes the ministry should provide her with the requested item, "Medical Alert Bracelet", and the potential benefits that would be derived from such a purchase.

After the ministry Reconsideration Decision was made, and prior to the hearing, the appellant submitted additional argument in the Reasons for Appeal section of her Notice of Appeal as to why she believes she needs the "Medical Alert Bracelet", and cites the legislation she believes would permit the ministry to make such a purchase.

At the hearing the appellant presented arguments as to why she believed the ministry should provide her with a Medical Alert Bracelet which is set out in Part F of the panel's decision. In response to a question from a panel member regarding the cost of a Medical Alert Bracelet the appellant reported that the Bracelet cost \$40.00, there was a one time set-up fee of \$24.00 and a monthly service charge of \$5.00.

At the hearing the ministry stood by the record. In response to a question from the appellant asking how she could go about getting the requested item included under the list of eligible medical equipment, the ministry suggested she contact legal aid.

The panel admitted the appellant's oral testimony and her written submission in her Notice of Appeal under Section 22(4) of the Employment and Assistance Act as it was found to be in support of the information and records before the ministry at reconsideration and assisted the panel to better understand the appellant's arguments.

The panel made the following findings of fact:

- The appellant is in receipt of disability assistance and is eligible to receive health supplements provided under section 62 and Schedule C of the EAPWD Regulation.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's reconsideration decision which denied the appellant's request for funding for a "Medical Alert Bracelet", was a reasonable application of the legislation or was reasonably supported by the evidence. The ministry determined that the appellant did not meet the program criteria because a Medical Alert Bracelet is an ineligible item under Schedule C of EAPWD Regulation. In arriving at their decision the ministry relied upon the following legislation.

### General health supplements

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,

### 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).

[en. B.C. Reg. 61/2010, s. 4; am. B.C. Reg. 197/2012, Sch. 2, s. 8.]

## Schedule C

### General health supplements

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;
- (b) Repealed. [B.C. Reg. 236/2003, Sch. 2, s. 2 (b).]
- (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:

Item	Service	Provided by	Registered with
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the <i>Health Professions Act</i>
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i>
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <i>Health Professions Act</i>
4	naturopathy	naturopath	College of Naturopathic Physicians of British

			Columbia under the <i>Health Professions Act</i>
5	non-surgical podiatry	podiatrist	College of Podiatric Surgeons of British Columbia under the <i>Health Professions Act</i>
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the <i>Health Professions Act</i>

(d) and (e) Repealed. [B.C. Reg. 75/2008, s. (a).]

(f) the least expensive appropriate mode of transportation to or from

- (i) an office, in the local area, of a medical practitioner or nurse practitioner
- (ii) the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist in that field by a local medical practitioner or nurse practitioner,
- (iii) the nearest suitable general hospital or rehabilitation hospital, as those facilities are defined in section 1.1 of the Hospital Insurance Act Regulations, or
- (iv) the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the *Hospital Insurance Act*,

provided that

- (v) the transportation is to enable the person to receive a benefit under the *Medicare Protection Act* or a general hospital service under the *Hospital Insurance Act*, and
- (vi) there are no resources available to the person's family unit to cover the cost.

(g) Repealed. [B.C. Reg. 75/2008, s. (a).]

- (1.1) For the purposes of subsection (1) (a), medical and surgical supplies do not include nutritional supplements, food, vitamins, minerals or prescription medications.
- (2) No more than 12 visits per calendar year are payable by the minister under this section for any combination of physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services.
- (2.1) If eligible under subsection (1) (c) and subject to subsection (2), the amount of a general health supplement under section 62 of this regulation for physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services is \$23 for each visit.
- (3) If the minister provided a benefit to or for a person under section 2 (3) of Schedule C of the Disability Benefits Program Regulation, B.C. Reg. 79/97, the Income Assistance Regulation, B.C. Reg. 75/97 or the Youth Works Regulation, B.C. Reg. 77/97, as applicable, for the month during which the regulation was repealed, the minister may continue to provide that benefit to or for that person as a supplement under this regulation on the same terms and conditions as previously until the earlier of the following dates:
  - (a) the date the conditions on which the minister paid the benefit are no longer met;
  - (b) the date the person ceases to receive disability assistance.

Sections 2.1, 2.2 and 4 through 9 set out the requirements for the provision of the following health supplements: optical; eye examination; dental; crown and bridgework; emergency dental; diet; monthly nutritional; natal; and, infant formula.

### 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

(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:

- (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.

(3) Subject to subsection (6), the minister may provide as a health supplement a replacement of medical equipment or a 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.

(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) 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.

Sections 3.1 through 3.12 set out the requirements for the provision of the following health supplements: canes, crutches, and walkers; wheelchairs; wheelchair seating systems; scooters; toileting, transfers and positioning aids; hospital beds; pressure relief mattresses; floor or ceiling lift devices; breathing devices; orthoses; hearing instruments; and, non-conventional glucose meters.

The appellant's position is that she requires a Medical Alert Bracelet to prevent imminent and substantial danger to her health. The ministry's position is that the appellant is not eligible to receive funding for a Medical Alert Bracelet, because a Medical Alert Bracelet is an ineligible item.

In considering the appellant's request for a Medical Alert Bracelet all of the requirements that must be met for the provision of health supplements set out in the EAPWD Regulation and Schedule C were considered.

#### Medical Supplies

In the appellant's Notice of Appeal and in her testimony at the hearing she argued that she could get a prescription for a Medical Alert Bracelet from her doctor if required, that the cost of a Medical Alert bracelet was \$40.00 with an additional \$24.00 set-up fee and a \$5.00 per month service fee, and that the Bracelet would be used to prevent "imminent and substantial danger to health", per Schedule C - 2(1)(a)(ii). The appellant also argued that given her limited income she did not have the resources to pay for the requested item herself thereby meeting the requirements set out in Schedule C - 2 (1)(a)(iii).

The appellant also argued that a Medical Alert Bracelet would provide emergency medical personal with quick access to her extensive health issues and to medication and allergies which cause anaphylaxis. She said that many emergency personal have strongly recommended that she should have a Medical Alert Bracelet so that if she is unable to speak for herself they would be able to avoid using the medications that could make her worse, and could access the list of medications she is currently taking. The appellant argued that given the number of allergies she has, having a Medical Alert Bracelet could save her life.

The ministry argued that based on the evidence and the regulatory requirements the appellant is not eligible for a Medical Alert Bracelet as medical supplies for the following reasons:

1. A Medical Alert Bracelet is not is not a disposable or reusable medical or surgical supply required to meet one of the purposes set out in EAPWD Regulation, Schedule C, section 2(1)(a)(i).

The ministry further argued that a Medical Alert Bracelet is not one of the medical or surgical supplies that may be paid for under EAPWD Regulation, Schedule C, sub-section 2(1)(a)(1) if the minister is satisfied that all of the requirements set out in EAPWD Regulation, Schedule C, section 2(1)(a)(ii) and (iii) are met in relation to the listed supplies.

EAPWD Regulation, Schedule C, sub-section 2(1)(a.2)(1) sets out that consumable medical supplies may be paid for by the minister if the minister is satisfied that (i) the supplies are required to thicken food; (ii) all of the requirements described in paragraph 2(ii) and (iii) are met in relation to the supplies. The ministry argued that the appellant's request for a Medical Alert Bracelet meets neither of these requirements.

The panel finds that the ministry reasonably determined that based on the evidence a Medical Alert Bracelet is not a disposable or reusable medical or surgical supply required to meet one of the purposes set out in EAPWD Regulation, Schedule C, section 2(1)(a)(i). For this reasons the panel finds the ministry reasonably determined that the appellant is not eligible to receive a Medical Alert Bracelet as medical supplies.

### Medical Equipment

The appellant argued at the hearing and in her Notice of Appeal that she understands that a Medical Alert Bracelet is not specifically named under the list of medical equipment that the ministry may provide, but that it should be. The appellant argued that if she is unable to speak for herself and is given medication or exposed to anything she is allergic to the results could be devastating causing anaphylaxis or even death.

The ministry argued that the EAPWD Regulation, Schedule C, section 3 set out the general requirements for all eligible equipment/devices for 3.1 to 3.12. Each of these sections also has other requirements that must be met. As a Medical Alert Bracelet is not a listed item and in addition, the information provided does not establish the other legislative criteria set out in these sections, for each of these health supplements have been met the ministry argued that the appellant was not eligible to receive the requested item as medical equipment.

The panel finds that while the appellant may believe that a Medical Alert Bracelet should be listed as an eligible item under EAPWD Regulation, Schedule C, sections 3.1 to 3.12, it is not. For this reason the panel finds that the ministry reasonably determined that the appellant was not eligible to receive the requested item as medical equipment. The panel also finds that the ministry reasonably determined that the information provided does not establish that any of the other legislative criterion set out in sections 3.1 to 3.12 has been met.

### Other Legislation

The panel finds there is no dispute by either party that a Medical Alert Bracelet is not an eligible item set out in EAPWD Regulation, Schedule C, sections 2(1)(c), 2.2 and 2(2.1) or in , Schedule C, sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8, and 9. The panel also finds that the information provided does not establish the other legislative criteria set out in these sections for each health supplement has been met.

### Life Threatening Health Need

Both at the hearing and in the appellant's Request for Reconsideration she argued that a Medical Alert Bracelet would provide emergency medical personnel with quick access to her extensive health issues and to her medications and allergies which cause anaphylaxis. She also argued that many emergency personnel have strongly recommended that she should have a Medical Alert Bracelet so that if she is unable to speak for herself they would be able to avoid using the medications that could make her worse and would be able to access the list of medications she is taking.

The appellant further argued both at the hearing and in her Notice of Appeal that a Medical Alert Bracelet would be used to avoid "imminent and substantial danger to health".

The ministry argued that Section 69 applies to health supplements set out under Schedule C, sections 2(1)(a) to (f) {general health supplements} and section 3 {medical equipment and devices}. It is intended to provide a remedy for those persons who are facing a direct and imminent life-threatening health need for these supplements and who are not otherwise eligible to receive them.

The ministry argued that information submitted with the appellant's Request for Reconsideration does not establish that she meets the criterion under section 69 of the EAPWD Regulation and that she is not eligible to receive a Medical Alert Bracelet.

The panel finds that while the appellant argued at the hearing, in her Notice of Appeal, and in her Request for Reconsideration that the item requested is necessary to avoid an imminent and substantial danger to her health; her position is not supported by any documental evidence. The panel also finds that the ministry reasonably determined that a Medical Alert Bracelet is not a health supplement set out in the EAPWD Regulation Schedule C, section 2(1)(a) and (f) or section 3, 3.1 to 3.12, and for these reasons the panel finds that the ministry reasonably determined that the appellant's request for a Medical Alert Bracelet has not met the regulatory requirements set out in the EAPWD Regulation section 69.

### Conclusion

The panel finds based on the evidence presented and the applicable legislation the ministry's decision to deny the appellant's request for a Medical Alert Bracelet was reasonably supported by the evidence, and confirms the ministry's



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decision.