

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated March 1, 2013 that held that the appellant was not eligible for a LTC 4000 Ultra 55, 36" x 84" Mattress as a health supplement as the criteria pursuant to sections 62 to 69 and Schedule C, of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) were not met.

The ministry determined that as provided in Schedule C, specifically:

1. the criterion of section 3.7 was not met because the pressure relief mattress is not medically essential to prevent skin breakdown and maintain skin integrity and the 5 year time period had not passed;
2. the criterion of section 3.6 was not met because the item is not medically essential to facilitate transfers of a person to and from bed or to adjust a person's positioning in bed;
3. the criterion of section 3, 3.1 to 3.11 was not met because the item is not listed under medical equipment and devices;
4. the criterion of section 2(1)(a) was not met because the item requested is not medical or surgical supplies required for any of the purposes set out in section 2(1)(a)(i);
5. the criterion of section 2(c) was not met because the pressure relief mattress is not required as therapy;
6. the criterion of sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 and 9 was not met because the pressure relief mattress is not listed under the remaining health supplement legislation; and
7. the criterion of section 69 was not met because the pressure relief mattress is not required to meet a life- threatening health need.

PART D – Relevant Legislation

Employment and Assistance for persons with Disabilities Regulation (EAPWDR), Sections 62-69.
Employment and Assistance for persons with Disabilities Regulation (EAPWDR), Schedule C.

PART E – Summary of Facts

The evidence before the ministry at reconsideration consisted of the following:

- An approval from the ministry dated March 12, 2009 for an Invacare Hospital Bed with Rails; a Thermamax Supreme Mattress and a Raz Shower Commode not to exceed a total of \$6,311.66.
- A Medical Equipment Request and Justification form dated October 24, 2012 recommending a Mattress for the appellant.
- A Quotation dated October 29, 2012 for a LTC 4000 Ultra 55, 36" x 84" Mattress for \$1,166.00 and a ¾ Foam Mattress Protector for \$241.00.
- A letter dated November 2, 2012 from the appellant's Occupational Therapist (OT) indicating that the appellant has an electric bed and a foam mattress which is broken in the middle causing the appellant to be uncomfortable, to have back pain and to sleep poorly. The OT states that the appellant is requesting a replacement mattress with a base protector so the foam in the middle does not break again. It is indicated that the appellant has trialed this mattress finding it comfortable and his caregivers have also found it appropriate.
- A Medical Equipment Request – Tracking Sheet dated January 16, 2013 indicating that the appellant was approved for a hospital bed and mattress in March 2009 and the 5 year replacement is April 2014. Also it is indicated that there is no change in medical condition. The mattress base protector for \$179.10 is recommended for funding.
- A Purchase Authorization dated February 21, 2013 for a Foam Mattress Base Protector.
- The appellant's Request for Reconsideration was submitted on February 15, 2013.

In his Notice of Appeal dated March 11, 2013, the appellant states that his 4 year old mattress has broken down and is buckling in the middle. This causes great pain and is beginning to cause skin breakdown on his coccyx. As he is very heavy and sinks in the middle, it also causes pain and makes it difficult for his caregivers to reposition him.

Included with the Notice of Appeal was a letter from the appellant's OT dated March 13, 2013 indicating that the appellant lives in a group home with full time caregivers. The appellant is noted to be dependent for all his daily living activities and requires a mechanical lift transfer by 2 caregivers. The appellant uses a full electric bed and a foam mattress with the foam broken down in the middle creating a gap where his where his bottom and coccyx are situated. This causes the appellant to be extremely uncomfortable; he is developing redness on his coccyx, and is presently at high risk for skin breakdown when he is in bed. The appellant is in bed twice a day, once for 2 hours and at night for 11 hours. The appellant requires a replacement mattress with a base protector so the foam in the middle does not break again. The appellant and his caregivers have determined that the mattress he has trialed is appropriate for pressure relief and reduction.

The panel finds that the new information provided by the appellant in his Notice of Appeal and the recent letter from his OT is further description of the appellant's current situation and its impact and is therefore in support of the information and records that were before the ministry at the time of reconsideration. The panel therefore admits the new information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

Findings of Fact

The appellant is a single recipient with Persons with Disabilities designation.

There are no resources available to the family unit to cover the cost of the LTC 4000 Ultra 55, 36" x 84" Mattress, (the item).

The appellant has requested pre-authorization from the ministry for the item requested.

The item has been prescribed by a medical practitioner.

An assessment has been completed by the OT confirming the need for the item.

The appellant's last mattress was funded by the ministry in March, 2009.

The appellant received approval to purchase a Foam Mattress Base Protector on February 21, 2013.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry reasonably determined that the appellant is ineligible for a LTC 4000 Ultra 55, 36" x 84" Mattress as a health supplement as the criteria pursuant to sections 62 to 69 and Schedule C, of the Employment and Assistance for Persons with Disabilities Regulation were not met.

Relevant Legislation

The following sections of the EAPWDR and Schedule C apply to this appeal:

Medical equipment and devices – hospital bed

3.6 (1) Subject to subsection (3) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate transfers of a person to and from bed or to adjust or maintain a person's positioning in bed: (B.C. Reg. 197/2012)

(a) a hospital bed;(b) an upgraded component of a hospital bed;(c) an accessory attached to a hospital bed;(d) a positioning item on a hospital bed. (B.C. Reg. 197/2012)

(2) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

(3) The following items are not health supplements for the purposes of section 3 of this Schedule:

(a) an automatic turning bed; (b) a containment type bed.

Medical equipment and devices – pressure relief mattresses

3.7 (1) A pressure relief mattress is a health supplement for the purposes of section 3 of this Schedule if the minister is satisfied that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity.

(2) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

General health supplements – Section 2, 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.

Sections 2.1, 2.2, 4, 4.1,5, 6, 7, 8 and 9 set out additional 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 including optical and dental, that are not that are relevant to the request.

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).

The appellant's position is that his 4 year old mattress has broken down and is buckling in the middle. This causes him great pain and is beginning to cause skin breakdown on his coccyx. As he is very heavy and sinks in the middle, it also causes pain and makes it difficult for his caregivers to reposition him.

The appellant's OT reports that the appellant is dependent for all his daily living activities and requires a mechanical lift transfer by 2 caregivers. The appellant uses a full electric bed and a foam mattress with the foam broken down in the middle creating a gap where his where his bottom and coccyx are situated. This causes the appellant to be extremely uncomfortable and he is developing redness on his coccyx. He is presently at high risk for skin breakdown, when he is in bed which is twice a day, once for 2 hours and at night for 11 hours. The appellant requires a replacement mattress with a base protector that is appropriate for pressure relief and reduction.

The ministry's position is as follows:

1. The criterion of section 3.7 was not met because the appellant's OT indicated that the appellant's mattress is extremely uncomfortable and not that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity. In order to allow the appellant a more comfortable sleep and minimize his back pain, the ministry approved the purchase of a mattress base protector. The ministry also indicates that the replacement time period for a pressure relief mattress is 5 years which does not apply when an item is required due to changes in a person's medical condition which has not been confirmed by the OT.
2. The criterion of section 3.6 was not met because the item is not medically essential to facilitate transfers of a person to and from bed or to adjust a person's positioning in bed. The ministry determined that the item requested is not a hospital bed and cannot be considered an upgraded component of a hospital bed or an accessory attached to a hospital bed.
3. The criterion of section 3, 3.1 to 3.11 was not met because the item is not listed under medical equipment and devices to include: a cane, walker, wheelchair, scooter, a grab bar, a floor or ceiling lift device, a positive airway pressure device, a custom-made orthotic and/or a hearing aid.
4. The criterion of section 2(1)(a) was not met because the item requested is not listed under medical or surgical supplies required for any of the purposes set out in section 2(1)(a)(i); wound care, ongoing bowel care, catheterization, incontinence, skin parasite care and/or limb circulation care.

5. The criterion of section 2(c) was not met because the pressure relief mattress is not required as a listed therapy provided to include: acupuncture, chiropractic service, massage therapy, naturopathy, non-surgical podiatry and/or physiotherapy therapy.
6. The criterion of sections 2.1, 2.2, 4, 4.1,5, 6, 7, 8 and 9 was not met because the pressure relief mattress is not listed under the remaining health supplement legislation.
7. The criterion of section 69 was not met because the pressure relief mattress is not a life-threatening health need.

The ministry also notes that the 5 year replacement for a pressure relief mattress under section 3.7 for the appellant will not be until April 2014.

Having reviewed and considered all of the evidence and the legislation specifically noted by the ministry, the panel finds that the relevant legislation in this appeal which concerns eligibility for a mattress is section 3.7 of Schedule C. Therefore, the panel findings will be referenced accordingly.

The panel notes that the appellant's OT in his letter dated March 13, 2013 reports that the appellant uses a full electric bed and a foam mattress with the foam broken down in the middle creating a gap where his bottom and coccyx are situated for 13 hours each day. The OT writes that this causes the appellant to be extremely uncomfortable, he is developing redness on his coccyx, and he is presently at high risk for skin breakdown. The panel also notes that while the ministry in its reconsideration decision indicates that the appellant's OT has not confirmed a change in his medical condition, they have not referred to the new evidence provided in the OT's most recent letter which expands upon and explains the pain that the appellant was suffering when he made his first request for a new mattress. The panel finds that the appellant's OT has in fact confirmed that the appellant's medical condition has changed as he is presently developing redness on his coccyx and he is at high risk for skin breakdown. The panel also finds that in the Notice of Appeal, the appellant reports that skin breakdown "is beginning". Therefore, the panel finds that the ministry did not reasonably determine that section 3.7(1) of Schedule C was not established because the pressure relief mattress is medical essential for the appellant to prevent skin breakdown and maintain skin integrity.

Additionally, the panel notes that the ministry's reconsideration decision states that the replacement time period for a pressure relief mattress is 5 years as specified in section 3.7(2) of Schedule C which according to ministry policy does not apply when an item is required due to changes in a person's medical condition. Therefore, the panel finds that based on the evidence of the OT, the appellant is experiencing skin breakdown and that the pressure relief mattress is required due to changes in his medical condition thereby qualifying him for the policy exception.

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's decision that the appellant was not eligible for a pressure relief mattress was not reasonably supported by the evidence and therefore rescinds the ministry's decision in favour of the appellant.