

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) September 3, 2013 reconsideration decision denying the appellant's request for a supplement for van repairs of the wheelchair ramp/lift system because the ministry determined that the information provided does not establish that the eligibility criteria set out in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) have been met, and specifically that:

- Van repairs of the wheelchair ramp/lift system are not items set out in Schedule C Section 3, 3.1 to 3.12 (EAPWDR)
- The information provided does not establish eligibility under section 69 because
 - i) no remedy is required because the appellant meets the basic eligibility requirements of section 62;
 - ii) no imminent life-threatening need has been established;
 - iii) section 69 only provides certain supplements according to Schedule C: section 2(1) (a) and (f) and section 3.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 62 and 69, Schedule C section 2(1) (a) and (f) and section 3.

PART E – Summary of Facts

In its reconsideration decision dated September 3, 2013, the ministry states that the Appellant is a recipient of disability assistance.

In his Request for Reconsideration dated August 29, 2013 the appellant states that he is requesting reconsideration for his van repairs. He is a quadriplegic and needs his van to get to the doctor and specialist appointments. The ramp system to lower the ramp for his wheelchair and open and close the doors no longer works. He lives in a rural area without bus service or taxi for handicapped. Many of his doctor's appointments are a 2 hour + drive away from his home. His van is his only mode of transportation.

At his Notice of Appeal dated August 10, 2013, the appellant states that he has no other means of transportation to and from doctor's and specialist appointments and to get to outside activities. He has no other means to get his van repaired. He has nothing left of any value to sell and family is not able to help.

At the hearing the appellant's advocate stated that the appellant lives 37 km away from the nearest small town. She also stated that it is dangerous to pull down the ramp manually – in doing so someone slipped on the ice and sustained a severe injury. She added that initially the appellant expected that his insurance company would provide funds but later discovered that he was not covered for any van conversions.

Pursuant to section 22(4) of the Employment and Assistance Act the panel admits the appellant's statements in his Notice of Appeal and his advocate's oral testimony as being in support of the information that was before the ministry at reconsideration. These statements provide additional details regarding the appellant's request for funds to get his van repaired.

PART F – Reasons for Panel Decision

The decision in this appeal is whether the ministry reasonably denied the appellant funding for van repairs because it determined that the information provided did not establish that the appellant met the requirements of the EAPWDR, and specifically that

- van repairs of a wheelchair ramp/lift are not included in the list of items the ministry may provide under section 3, 3.1 to 3.12 of Schedule C EAPWDR;
- The appellant is not eligible under section 69 because
 - i) no remedy is required because the appellant meets the basic eligibility requirements of section 62;
 - ii) no imminent life-threatening need has been established;
 - iii) section 69 only provides certain supplements according to Schedule C: section 2(1) (a) and (f) and section 3.

The following sections of the EAPWDR apply to this appeal:

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.

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.

...

(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.

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.

...

– canes, crutches and walkers [3.1]

– wheelchairs

3.2 (2) ... 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 achieve or maintain basic mobility:

- (a) a wheelchair;
- (b) an upgraded component of a wheelchair;
- (c) an accessory attached to a wheelchair.

– wheelchair seating systems

3.3 (1) 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 achieve or maintain a person's positioning in a wheelchair:

- (a) a wheelchair seating system;
- (b) an accessory to a wheelchair seating system.

– scooters [3.4]

- **toileting, transfers and positioning aids [3.5]**
- **hospital bed [3.6]**
- **pressure relief mattresses [3.7]**
- **floor or ceiling lift devices [3.8]**
- **breathing devices [3.9]**
- **orthoses [3.10]**
- **hearing instruments [3.11]**
- **non-conventional glucose meters [3.12]**

Position of the parties:

The appellant believes he is entitled to receive funds for the repair of his van as the system to lower the ramp for his wheelchair and open and close the doors no longer works.

The ministry argues that a wheelchair ramp/lift system or repairs to a wheelchair ramp/lift system are not included as health supplements set out in Schedule C sections 2(1)(a) [*medical supplies*] and (f) [*medical transportation*] nor as medical equipment and devices set out in Schedule C sections 3.1 to 3.12 of the EAPWDR. The ministry argues further that pursuant to section 69 the information submitted by the appellant has not established a direct and imminent life-threatening health need for van repairs.

The appellant's position is that as a quadriplegic his van is his only available means of transportation to get him to and from doctors and specialist appointments and to activities outside of his home; where he lives there is no bus service or taxi for handicapped.

The ministry argues that the appellant does not meet all requirements for a health supplement for medical transportation as specified in Schedule C section 2(1)(f).

Panel Decision

Pursuant to section 62 (1) the minister may provide any health supplement set out in section 2 or 3 of Schedule C to a recipient of disability assistance. Repairs to a wheelchair ramp/lift system are not included in the health supplements the minister may provide and can therefore not be made available to the applicant under section 62.

Section 2(1)(a) EAPWDR lists certain supplements the minister may provide – van modifications are not among those items. Schedule C section 2(1)(f) provides for a health supplement for the least expensive appropriate mode of transportation for doctor's and specialist appointments. While the appellant states that his van is his only means of transportation to make it to doctor's and specialist appointments the panel finds that modifications to a vehicle are not medical transportation as set out in section 2(1)(f).

Under section 69 (a) the minister may provide health supplements if the person faces a direct and imminent life threatening need. The panel finds that there is no evidence that the appellant was facing a direct and imminent life threatening need to have his van repaired. Additionally, as section 69 is limited to Schedule C supplements as set out in Schedule 2(1)(a) and (f) and section 3, which do not include the required repairs, this criterion was not met.

For these reasons, the panel finds that the ministry was reasonable in denying the appellant's request for a supplement for van repairs of the wheelchair ramp/lift system. The ministry's decision is confirmed.