

**PART C – Decision under Appeal**

In a reconsideration decision dated August 9, 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: At the hearing the Appellant submitted a prescription note dated September 4, 2013 from her General Practitioner that states that the Appellant is in need of a home BPM, that she needs to check her blood pressure twice daily and that she is at high risk for having another heart attack or stroke. The Ministry did not object to the note. The Panel found the note is in support of the medical information before the Ministry at the time of the reconsideration decision and admits it 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 prescription note dated July 10, 2013 from her General Practitioner stating the Appellant needs a BPM due to many risk factors including hypertension.
- A quote for a BPM at \$75.98 dated July 10, 2013.

In her reasons for appeal, the Appellant states she needs to replace the old BPM and she needs to use it twice daily as per her doctor's orders.

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 BPM requested does not meet the eligibility criteria set out in that legislation.

At the hearing the Appellant explained that the Ministry had funded her old BPM 8 or 9 years ago, however it now needs to be replaced. She stated that she has had major heart problems since birth, was diagnosed with diabetes 14 years ago and is the emergency often for symptoms due to her high blood pressure. She said her other option to a home BPM is to go into town twice a day to check it. She added that she is on a lot of medications and has had some changes to the medications due to her high blood pressure.

At the hearing the Ministry reiterated that a BPM is not an eligible item under the legislation and suggested that the Appellant might look to other community resources for possible funding for it.

## 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 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 in Schedule C.

The criteria for health supplements are 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 argues her old BPM needs replacing.

The Ministry argues that BPM does not meet the eligibility under Section 69 or any sections of Schedule C in the EAPWDR, specifically it does not fit the criteria as defined as medical supplies, medical equipment, health supplements or any of the other items set out in the remaining sections.

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). The Panel finds a BPM is not a medical supply required for wound care, ongoing bowel care, catheterization, incontinence, skin parasite care, or limb circulation care as defined in Subsection (A) through (F) and that the Ministry reasonably determined the BPM is not an eligible supply as defined in Subsections (A) through (F).

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 for Health Supplements under Section 3 of Schedule C 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 medical information submitted by the Appellant's family physician does confirm the Appellant would benefit from the BPM but the information does not specify that the Appellant faces a direct and imminent life threatening need for the BPM. Therefore the Panel finds the Ministry was reasonable to find the Appellant ineligible for a health supplement under Section 69 of the EAPWDR in the Reconsideration Decision.

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