

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated July 22, 2013 which denied the appellant's request for funding for a power wheelchair. The ministry found that as the appellant is designated as a person with disabilities (PWD), he is eligible to apply to the ministry for health supplements under the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR). However, the ministry was not satisfied that the information provided established that a power wheelchair was the least expensive appropriate equipment as required by the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) Schedule C, Section 3(1)(b)(iii). The ministry was also not satisfied that the wheelchair is medically essential to achieve or maintain basic mobility as required by EAPWDR Schedule C, section 3.2(2)(a).

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62 and Schedule C, section 3

PART E – Summary of Facts

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

- 1) The appellant's Request for Reconsideration (RFR) dated July 8, 2013 in which he states that he does not have the physical ability to get around without a wheelchair unless he experiences severe pain and stress. The appellant states that walking causes him severe pain due to arthritis and previous neck and back fractures. The appellant states that he does not have a walker anymore as he could not use it due to the arthritis in his hands (could not grip the handles) and constant pulling down on his shoulders and neck. The appellant also states that he no longer has a bus pass as he had to return it to have access to the transportation subsidy which he used on basic living needs such as food and clothing. The appellant states that being denied the wheelchair is causing him stress, increased depression, anxiety, panic attacks and migraines. The appellant states that the wheelchair would allow him to get around without constant pain and suffering and allow him the mobility he dreams of.
- 2) Letter from the ministry to the appellant dated June 5, 2013 advising that the ministry determined that the appellant did not meet the eligibility criteria for a power wheelchair with attached medical equipment and devices decision summary.
- 3) Letter from an occupational therapist (OT) dated April 10, 2013 stating that the appellant has a complex medical history, mild osteoarthritis in his left knee, degenerative disc disease in his cervical spine and lumbar spine, old compression fracture of L-1, psoriasis, and anxiety disorder with panic attacks. The OT notes that the appellant walks on flattened arches, has migraines, uses a cane for mobility, is on various pain medications, and that walking aggravates his pain with burning feet pain after walking a few blocks. The OT reports that the appellant has functional indoor mobility and is independent in all aspects of activities of daily living (ADL) and instrumental activities of daily living (IADL) with the exception of easy community access. The OT reports that the appellant had a 4 wheel walker prescribed for him but he does not use it and that a power wheelchair would be preferable. The OT reports that the appellant trialed a medium power wheelchair and was proficient and safe in using it. The OT states that the appellant would use the power wheelchair to go shopping, run errands, attend the mental health clubhouse, and attend doctor's appointments.
- 4) Quote from a medical equipment supplier for a power wheelchair at a cost of \$3,851.40.
- 5) Medical equipment and request justification dated April 4, 2013 completed by an OT, recommending that the appellant be provided with a power wheelchair.
- 6) Letter from the ministry to the appellant dated February 19, 2013 advising that before the appellant's request for a power wheelchair can proceed the ministry requires a full functional assessment and adjudicator's note of same date.
- 7) Medical equipment request and justification form dated February 13, 2013 stating that the appellant has prosiatic arthritis and chronic low back pain/restricted mobility and requires an electric wheelchair.
- 8) Diagnostic Imaging Report dated November 22, 2012 stating that there is no evidence of inflammatory arthropathy and that the uptake on delayed static imaging is likely all degenerative.

In his Notice of Appeal the appellant states that he has neck and back fractures, pain and needs a wheelchair for mobility to get around and go to a community facility, to the local hot tub which helps to get rid of his pain.

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to EAR section 86(b).

The ministry did not submit any new evidence and relied on the reconsideration decision.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision denying the appellant's request for funding for a wheelchair as it is not the least expensive appropriate equipment and because the minister was not satisfied that the wheelchair was medically essential to achieve or maintain basic mobility as required by EAPWDR Schedule C, sections 3(b)(1)(iii) and 3.2(2)(a) was reasonable.

EAPWDR Schedule C, section 3, Medical equipment and devices, states as follows:

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:

(B.C. Reg. 197/2012)

(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.

Medical equipment and devices – wheelchairs

3.2 (1) In this section, "**wheelchair**" does not include a stroller.

(2) Subject to subsection (4) 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 achieve or maintain basic mobility:

(a) a wheelchair;

EAPWDR Schedule C section 3(1)(b)(iii) – least expensive appropriate medical equipment or device

The ministry's position is that as the appellant is a person with disabilities (PWD) he is eligible to receive health supplements under EAPWDR section 62 if eligible for those supplements under EAPWDR Schedule C, section 3.

The ministry's position is that the information provided by the appellant and the OT does not satisfy the minister that a power wheelchair is the least expensive appropriate equipment as is required by EAPWDR Schedule C, section 3(1)(b)(iii). The ministry's position is that the OT has not indicated that the appellant has trialed any other type of mobility device and the OT has not confirmed that a walker, scooter or a manual wheelchair is not appropriate for the appellant's mobility needs. The ministry notes that while the OT states that the appellant had a 4 wheeled walker prescribed for him but does not use it this is not sufficient to establish that it is not appropriate for his mobility needs, particularly as the OT reports that the appellant is independent in all aspects of ADL's and IADL's, with exception of easy community access.

The appellant's position is that he has limited mobility and constant pain due to fractures to his neck and back, and arthritis. The appellant's position is that he has increased pain after walking only a few blocks, so he requires the wheelchair for mobility and to be able to shop, run errands, go to doctor's appointments and go to the local community centre to access the hot tub which helps decrease his pain. The appellant's position is that he no longer has a walker as he could not use it due to arthritis in his hands that made it difficult for him to grip the handles and because using the walker caused constant pulling down on his shoulders and neck.

Panel Decision

The panel acknowledges that the appellant has pain from previous neck and back fractures and arthritis and increased pain with walking. While the appellant states that he no longer has his walker and that he could not use the walker because his arthritis made it difficult for him to grip the handles and because using the walker caused neck and shoulder pain, the appellant's evidence in that regard is not supported by the OT. In particular, the panel notes that the OT states that the appellant was provided with a four wheeled walker but that he does not use it. The OT does not provide any further information as to why the appellant does not use the four wheeled walker and the OT reports that the appellant is independent with all ADL's and IADL's, with exception of easy community access. There is no information from the OT to indicate that the appellant trialed any other type of mobility advice that may be more suitable and less expensive.

Based on all the evidence, the panel finds that the ministry's determination that the power wheelchair is not the least expensive appropriate medical equipment or device as required by EAPWDR Schedule C, section 3(b)(iii) was reasonable.

EAPWDR Schedule C section 3.2(2)(a) – whether the wheelchair is medically essential to achieve or maintain basic mobility

The ministry's position is that under the EAPWDR Schedule C, section 3(1), the minister is authorized to provide a power wheelchair if the minister is satisfied that it is medically essential to achieve or maintain basic mobility. The ministry's position is that medically essential to achieve or maintain basic mobility refers to a client's need for equipment due to a mobility impairment which is necessary to perform his day to day activities in his home and/or community.

The ministry's position is that the appellant uses a cane for mobility, he has a 4 wheeled walker that was prescribed for him but he does not use it, his OT has not confirmed whether the appellant does not use the 4 wheeled walker because it does not meet his mobility needs or as a matter of personal choice and the OT has not provided an assessment that indicates that a cane, walker with seating, scooter or manual wheelchair would provide basic mobility. In addition, the ministry states that the appellant is able to use public transportation, is able to walk independently although he reports "burning" feet, he receives a transportation subsidy, and is able to independently mobilize indoors, and is independent with ADL's. The ministry's position is that it is not clear why the appellant requires a power wheelchair to attend his mental health club house and doctor's appointments.

The appellant's position is that he no longer uses the walker because of arthritis and that he requires a wheelchair to go shopping, run errands, attend the mental health clubhouse and doctor's appointments. The appellant states that walking causes him severe pain due to arthritis and because of previous neck and back fractures.

EAPWDR Schedule C, section 3.2(2)(a) states that the minister must be satisfied that the wheelchair is medically essential to achieve or maintain basic mobility. The panel notes that while the appellant may benefit from a wheelchair, the information does not establish that a wheelchair is medically essential for him to achieve or maintain basic mobility. For example, the Medical Equipment Request and Justification Form states that the appellant has psoriatic arthritis, chronic low back pain, and restricted mobility but nothing further to indicate that a wheelchair is medically essential. The OT letter states that the appellant would prefer a power wheelchair and that he trialed one successfully, but the letter does not establish that a power wheelchair is medically essential to achieve or maintain basic mobility. In particular the OT reports that the appellant is independent for all aspects of ADL's and IADL's with exception of easy community access. While the OT reports that the appellant has burning feet pain after walking a few blocks, he uses a cane for mobility, and receives a transportation allowance. Most importantly, the OT reports that the appellant has but does not use a four wheeled walker but the OT does not provide further information as to why the appellant does not use the walker.

The panel finds that the ministry's decision that the wheelchair is not medically essential to achieve or maintain basic mobility as required by EAPWDR Schedule C, section 3.2(2)(a) was reasonable.

Conclusion

Having reviewed and considered all of the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision which determined that the appellant was not eligible for funding for a power wheelchair was reasonably supported by the evidence and a reasonable application of the applicable legislation in the circumstances of the appellant. In particular, the panel finds that the ministry's reconsideration decision which found that the appellant did not meet EAPWDR Schedule C, section 3(b)(iii) and 3.2(2)(a) was reasonable.

Therefore, the panel confirms the ministry's reconsideration decision.