

**PART C – Decision under Appeal**

The decision being appealed is the Ministry of Social Development and Social Innovation (the “Ministry”) January 30, 2014 reconsideration denying the Appellant’s request for a high protein diet supplement of \$40 a month because the Ministry determined that the Appellant is receiving disability assistance under Schedule A, section 8 of the Employment and Assistance for Persons with Disabilities Regulation and therefore the Ministry is not authorized to provide a diet supplement under section 66 of that regulation.

**PART D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) Section 66 and Schedule A Section 8.



## PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the Employment and Assistance Act.

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that:

- The Appellant receives disability assistance under the EAPWDR provisions for people receiving special care; that is, Schedule A section 8, and not as a recipient who receives monthly support allowance or monthly shelter allowance.
- On November 21, 2013 the Appellant was admitted to a drug and alcohol treatment facility.
- The Ministry is paying for the Appellant's accommodation and care at the facility on a monthly basis at the per diem rate of \$40.
- The Ministry is also paying the Appellant a comforts allowance of \$95 a month.
- The Appellant requested a high protein diet supplement of \$40 a month for hepatitis C, supported by a prescription from a doctor dated December 19, 2013.
- The Appellant wrote that her doctor has written a prescription stating that for her hepatitis C she needs a high protein diet, which includes special vitamins not covered by the provincial medical insurance program. The diet and Ensure is also needed to help with her weight loss and for days when she can't eat because she is nauseous.

2. Appellant's request for reconsideration in which she wrote that she is requesting the allowance because she is fighting hepatitis C. She needs vitamins and Ensure because she can't eat on some days. She is anemic and her white blood count is increasing daily. The Appellant stated that this is causing her to be very tired and to lose weight. She received the allowance before when she was in treatment because the same thing happened. A doctor also agreed that she needs the proper treatments and food allowance.

For this appeal, the Appellant stated that she needs the \$40 a month dietary allowance to get the special diet items and vitamins that she needs.

The Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant receives disability assistance as a person receiving special care and not as a recipient who receives monthly support allowance or monthly shelter allowance.
2. The Ministry is paying for the Appellant's accommodation and care at a residential treatment facility and a comforts allowance of \$95 a month.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant's request for a high protein diet supplement of \$40 a month because the Ministry determined that the Appellant is receiving disability assistance under Schedule A, section 8 of the EAPWDR and therefore the Ministry is not authorized to provide a diet supplement under section 66 of that regulation.

The following sections of the EAPWDR apply to the Appellant's circumstances in this appeal:

24 Disability assistance may be provided to or for a family unit, for a calendar month, in an amount that is not more than

- (a) the amount determined under Schedule A, minus
- (b) the family unit's net income determined under Schedule B.

66(1) The minister may pay for a diet supplement in accordance with section 6 [*diet supplement*] of Schedule C for a recipient of disability assistance under section 2 [*monthly support allowance*], 4 [*monthly shelter allowance*], 6 [*people receiving room and board*], or 9 [*people in emergency shelters*] of Schedule A or a dependent of that person if the recipient or dependent requires

- (a) a special diet for a specific medical condition described in section 6 of Schedule C, or
- (b) a special diet described in section 6 of Schedule C.

### *Schedule A - People receiving special care*

8(1) For a person with disabilities who receives accommodation and care in a special care facility (other than a special care facility described in subsection (3)) or a private hospital or who is admitted to a hospital because he or she requires extended care, the amount referred to in section 24(a) [*amount of disability assistance*] of this regulation is the sum of

- (a) the actual cost, if any, to the applicant or recipient of the accommodation and care at the rate approved by the minister for the type of facility, plus
- (b) a comfort allowance of \$95 for each person for each calendar month.

### *The Parties' Positions*

The Appellant submitted that she needs the \$40 a month diet allowance to get the special diet items and vitamins she needs for treating hepatitis C. Her request is supported by her doctor's prescription.

The Ministry determined that because the Appellant does not receive disability assistance under any of the regulatory sections stipulated in section 66(1) of the EAPWDR, it is not authorized to provide her with a high protein diet supplement.

### *The Panel's Findings and Conclusion*

The Panel notes that the Ministry may pay for a diet supplement under section 66 of the EAPWDR; however, only for the recipients of disability assistance under the specific regulatory sections referred to in section 66. The Panel finds that the evidence establishes that the Appellant receives disability assistance under EAPWDR Schedule A, section 8 and that type of disability assistance is not listed in EAPWDR section 66. Therefore, the Panel finds that the Ministry reasonably determined that it is not authorized to pay for a diet supplement for the Appellant under section 66 of the EAPWDR. The Panel further finds that, in the Appellant's circumstances, the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable legislation. Therefore, the Panel confirms that decision.