

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) February 5, 2014 reconsideration denying the Appellant’s request for Lympha Press Compression therapies because the Ministry determined that this type of therapy is not an eligible health supplement under Schedule C section 2 of the Employment and Assistance for Persons with Disabilities Regulation and therefore the Ministry does not have the authority to fund such treatments.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) Section 62 and Schedule C Section 2.

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 as a Person with Disabilities (“PWD”).
2. November 11, 2013 letter from a family nurse practitioner to support the Appellant’s request for funding for the therapy and stating that:
 - The Appellant needs Lympha Press compression therapy treatment for management of right arm lymphedema secondary to right radical mastectomy and lymph node resection in 2004.
 - In the 9 years since her surgery, the Appellant has had recurrent right arm cellulitis requiring multiple courses of antibiotics, including several visits to the emergency department for intravenous antibiotic treatment.
 - The Appellant’s situation would be much worse without routine Lympha Press therapy.
 - The Appellant does not have the financial means to independently fund her therapy, including travel expenses to another city for treatment.
3. Appellant’s request for reconsideration in which she wrote that:
 - She needs this service weekly to keep the swelling down in her arm as a result of cancer.
 - The swelling she has is significant.
 - She enclosed the letter from the nurse practitioner to support her need for coverage of this therapy.
 - There is coverage for related things like massage.

For this appeal, the Appellant provided a written statement stating her position, which is set out in Part F of this decision. 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 PWD.
2. A nurse practitioner supported the Appellant’s request for financial assistance for Lympha Press compression therapy treatment.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant's request for Lympha Press compression therapies because the Ministry determined that this type of therapy is not an eligible health supplement under Schedule C section 2 of the EAPWDR and therefore the Ministry does not have the authority to fund such treatments.

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 [*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.

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:

(c) (iii) 1 acupuncture; 2 chiropractic; 3 massage therapy; 4 naturopathy; 5 non-surgical podiatry; 6 physiotherapy.

The Parties' Positions

The Appellant submitted that the Ministry covers other types of massage. She needs this service weekly to keep the swelling down in her arm as a result of cancer. The Appellant stated that it costs \$30-40 a week which is a lot for her. A nurse practitioner supports her need for coverage of this therapy.

The Ministry's position is that it does not have the authority to fund the requested treatments because Lympha Press compression therapy is not an eligible health supplement provided for in Schedule C section 2(1).

The Panel's Findings and Conclusion

The Panel notes that under section 62 of the EAPWDR, for individuals who receive disability assistance such as the Appellant, the Ministry may provide only those general health supplements that are set specifically set out in section 2 of Schedule C. Section 2, cited above, lists several types of therapies eligible for coverage, but Lymph Press compression therapy is not in that list. The Panel also finds that there is no information in the record for this appeal that Lymph Press compression therapy is included in one of the covered therapies, such as massage therapy. Therefore, the Panel finds that the Ministry reasonably determined that it does not have the authority to fund the requested treatments under section 62 of the EAPWDR. The Panel confirms the reconsideration decision.