

PART C – Decision under Appeal

The Ministry of Social Development and Social Innovation's (the ministry) reconsideration decision dated 25 March 2014 determined the appellant was not eligible for a blood pressure monitor (BPM) as it is not: a medical supply under s. 2(1) of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR); a medical device or medical equipment under sections 3, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11 or 3.12 of Schedule C of the EAPWDR; a health supplement set out in any other section of the EAPWDR; and, because there was no evidence she faced a direct and imminent life threatening need and, even if she did, it is not one of the items that she could obtain under s. 69 of the EAPWDR.

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, Schedule C.

PART E – Summary of Facts

The following evidence was before the ministry at the time of reconsideration:

- In December 2013, the ministry approved a designation for the appellant as a Persons with Disabilities (PWD) and she receives disability assistance.
- A doctor's prescription dated 3 January 2014 by the appellant's physician stating "she needs to get BP device... for her medical condition".
- A quote dated 16 January 2014 by a medical products provider for a digital blood pressure monitor for a total of \$109.76 including taxes.
- A Request for Reconsideration dated 9 March 2014 by the appellant indicating she needs a BPM because of her health issues, diabetes, nausea, depression, migraines as well as other physical and mental problems. She indicated she takes medication and painkillers and that she suffers dizziness and her blood pressure "is going up and down". She indicated she needed a BPM to monitor her blood pressure to try and control it during severe migraines and headaches.
- A letter by the appellant's physician dated 18 March 2014 titled "Medical Certificate" indicating that he is the appellant's family doctor and confirms his earlier prescription for a BPM "as a means to aid in her chronic migraines and diabetic management."

In her Notice of Appeal dated 31 March 2014, the appellant indicates she considers herself eligible for the blood pressure device as she does not have any other resources to get one and because of her health condition that is described by her family doctor in his letter of 18 March 2014.

PART F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision that the appellant was not eligible for a BPM as it is not: a medical supply under s. 2(1) of Schedule C of the EAPWDR; a medical device or medical equipment under sections 3, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11 or 3.12 of Schedule C of the EAPWDR; a health supplement set out in any other section of the EAPWDR; and, because there was no evidence she faced a direct and imminent life threatening need and, even if she did, it is not one of the items that she could obtain under s. 69 of the EAPWDR, was a reasonable application of the legislation or reasonably supported by the evidence.

S. 62 of the EAPWDR provides the authority to the minister to provide health supplements or medical equipment and devices:

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 (B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(a) a recipient of disability assistance,...

Schedule C provides for what specific items the minister may approve. S. 2(1) deals with medical supplies:

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;

Medical equipment and devices are dealt with in s. 3(1) of Schedule C of the EAPWDR:

3 (1) Subject to subsections (2) to (5) of this section, the medical equipment and devices described in sections 3.1 to 3.11 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...

Eligible medical equipment and health supplements are listed at s. 3.1 to 3.12 of Schedule C of the EAPWDR:

3.1: Cane, crutch, walker and accessory to a walker.

3.2: Wheelchair or its upgraded components or accessories;

3.3: Wheelchair seating system & accessories;

3.4: Scooter or its upgraded components or accessories;

3.5: Grab bar in bathroom; bath or shower seat; bath transfer bench with hand held shower; tub slide; bath lift; bed pan or urinal; raised toilet seat; toilet safety frame; floor-to-ceiling pole in bathroom; portable commode chair;

3.6: Hospital bed or its upgraded components or accessories;

3.7: Pressure relief mattress;

3.8: Floor or ceiling lift device;

3.9: Positive airway pressure device, its accessories or supplies;

3.10: Orthoses;

3.11: Hearing aids;

3.12: Non-conventional glucose meter.

S. 2.1-9 set out other health supplements including dental and natal.

Finally, health supplements may be provided in exceptional circumstances, for persons facing direct and imminent life threatening health needs:

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,

(c) the person's family unit is receiving premium assistance under the *Medicare Protection Act*, and

(d) the requirements specified in the following provisions of Schedule C, as applicable, are met:

(i) paragraph (a) or (f) of section (2) (1);

(ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

The ministry acknowledged that the appellant is a recipient of disability assistance and is eligible to receive health supplements under s. 62 of the EAPWDR. However, the ministry argued that a BPM cannot be considered as a medical supply since it is not for any of the purposes set out under s. 2(1)(a)(i) and is not part of the list of medical supplies that the ministry could provide under s. 2(1)(a.1) or (a.2) of Schedule C of the EAPWDR. The ministry also argued that it does not qualify as an eligible medical equipment since it is not in the list of equipment / devices that the ministry could provide under s. 3.1 to 3.12 of Schedule C of the EAPWDR. Additionally, the ministry indicated that a BPM is not an item set out in any of the other sections of the EAPWDR for therapy or remaining health supplements. Finally the ministry argued that there was no evidence based on the information submitted by the appellant that she faced direct and imminent danger to her health if a BPM was not made available to her and that even if this evidence was provided, a BPM is not a health supplement or medical equipment and devices set out in s. 2(1)(a) and (f) and 3 of Schedule C of the EAPWDR.

The appellant argued that she considered herself eligible for the BPM because she does not have the resources to get one and that her health condition requires one, based on her physician's letter that she needed the device as a means to aid in her chronic migraines and diabetic management. She also argued that she needed the device because her blood pressure was fluctuating and that she needed to monitor it so that she could control it when she suffers from severe migraines.

The panel notes that s. 62 of the EAPWDR is very specific that health supplements and medical equipment or devices can be provided to an eligible person only if they are part of the items set out in s. 2 or 3 of Schedule C of the EAPWDR. S. 2 deals with medical supplies and the panel finds that a BPM is not one of the items or for one of the purposes for which a supplement could be provided under this section. S. 3 deals with medical equipment / devices that must be included in the lists of items found at s. 3.1 to 3.12 of Schedule C of the EAPWDR for the minister to be able to provide them; the panel finds a BPM is not included in any of those lists. The panel also finds there are no other health supplements or therapies included in Schedule C that include a BPM. While there is no indication on record that the appellant was facing direct and imminent danger for her health, even if it was the case, s. 69 of the EAPWDR does not allow the ministry to provide any supplement, equipment or device other than those authorized under s. 2 or 3 of Schedule C of the EAPWDR which as the panel found did not include a BPM. In other words, if the device is not listed in the EAPWDR, the ministry does not have the authority to provide it to a recipient. Thus, the panel finds the ministry reasonably determined the item requested by the appellant, a BPM, was not an item that is included in s. 2 or 3 of Schedule C of the EAPWDR and that consequently, the appellant was not eligible for the device under s. 62 or 69 of the EAPWDR.

For those reasons, the panel finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.