

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated March 11, 2014 which denied the appellant's request for a supplement to cover the cost of repairs to her power wheelchair because:

- there is insufficient information provided to show that there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device, as required by Section 3(1)(b)(ii) of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR); and,
- the eligibility criteria for a life threatening health need were not met, as required by Section 69 of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 62 and 69, and Schedule C, Sections 3

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*.

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Ministry file notes relating to the appellant for the period September 27, 2013 through January 21, 2014;
- 2) Monthly Expenses and Recent Purchases for the appellant dated August 2013 indicating in part that the appellant's monthly expenses total \$1,101 (including rent of \$880, meals, laundry, cable TV, telephone, and power) and "As Required" expenses totaling \$2,331;
- 3) Bank statements for January showing an end balance of \$834.67 and for February 2014 showing an end balance of \$101.18;
- 4) Quote dated January 14, 2014 by a health supply company of repairs to a power wheelchair purchased December 1, 2011, including labour of \$75.00 with a conclusion that testing found the charger at fault, that it is not putting out the required current for a full charge and needs to be replaced at a cost of \$178.50, for a total of \$253.50; and,
- 5) Request for Reconsideration- Reasons dated February 21, 2014.

Prior to the hearing, the appellant provided the following additional documents:

- 1) Statement of monthly income and expenses showing total monthly income of \$1,348.70 and a monthly balance after paying rent of \$1,094.13 of \$254.57. The expenses listed include meals, laundry, toiletries, haircuts, clothing, power, bedding, towels, sheets, glasses, optometrist, dentist, HandyDART and taxi savers, foot care, bottled water, vitamins, contents insurance, hearing aid batteries, telephone, and cable TV; and,
- 2) Account Activity Statements for February and March 2014 showing in part monthly income of \$1,299.40 from Old Age Security and \$49.30 from the province, and pre-authorized debits in the sums of \$1,094.13, \$3.31 (cable TV), \$31.79 (telephone) and other cheque amounts. The end balance for February 2014 was \$1,449.88 and for March 18, 2014 was \$122.73.

In her Request for Reconsideration, the appellant wrote that her request for \$253.50 to cover the cost of repairs to her power chair was declined because she had over \$800 in her bank account in November 2013. That money went towards medical costs, such as the dentist as well as for other toiletries and bottled water that she must drink. She also needs specialized undergarments which are expensive. She pays for her long distance telephone bill, tenant insurance and rent (around \$1,094 per month). Therefore, the money she had in November 2013 went towards all of those medical and other necessities. The money she has in her bank now will go towards those as well. She also needs to get new hearing aids so she cannot afford the cost of the repairs to her power chair. Her total monthly income is \$1,295.13 to cover all of these costs.

In her Notice of Appeal dated March 19, 2014, the appellant attached a letter in which she wrote that she is over 65 years of age and she is wheel chair-bound and this is her only mobility. She attached the statement of monthly income and expenses and pointed out that her monthly income is \$1,348.70 and her monthly rent is \$1,094.13, leaving a monthly balance of \$254.57 to cover the expenses shown. These expenses are for items as needed monthly or annually. The rent does not cover anything on the list of expenses. It is a balancing act to juggle these expenses. Her present bank balance is \$122.73 as set out on her March bank statement.

The ministry did not raise an objection to the admissibility of the information in the appellant's letter or

attached statements and the panel admitted it, pursuant to Section 22(4) of the *Employment and Assistance Act*, as providing further detail regarding the appellant's resources and being in support of information that was before the ministry on reconsideration.

The ministry relied on the reconsideration decision, which included the following facts:

- The appellant is an MSO [Medical Services Only] client and is not currently in receipt of income assistance from the ministry.
- On January 21, 2014 the ministry received a request for funding to repair the appellant's power wheelchair, which included the Quote dated January 14, 2014.
- There is no information on credits to the appellant's bank account (income or other assets).
- The Account Activity statement for February 2014 does not categorize the withdrawals.
- The Monthly Expenses and Recent Purchases statement dated August 2013 shows rent at \$880, food at \$90 and utilities of \$131, totaling \$1,101.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost of repairs to her power wheelchair because there is insufficient information provided to show that there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device, as required by Section 3(1)(b)(ii) of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) and the eligibility criteria for a life threatening health need were not met, as required by Section 69 of the EAPWDR, is reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

Pursuant to Section 62 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR), the applicant must be a recipient of disability assistance or be a person in receipt of disability assistance (or a dependant) in a variety of scenarios. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that must be met in order to qualify for a health supplement for various items. In this case, the ministry has not disputed that the requirement of Section 62 has been met in that the appellant has been approved as a recipient of medical services only.

The ministry considered the appellant's request for the costs of repair of her power wheelchair under Section 3 of Schedule C of the EAPWDR, which provides:

Medical equipment and devices

- 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:
- (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.
- (2.1) For medical equipment or devices referred to in section 3.9 (1) (b) to (g), in addition to the requirements in that section 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:
- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
 - (b) an assessment by a respiratory therapist, occupational therapist or physical therapist confirming the medical need for the medical equipment or device.
- (3) Subject to subsection (6), the minister may provide as a health supplement a replacement of medical equipment or a medical device, previously provided by the minister under this section, that is damaged, worn out or not functioning if
- (a) it is more economical to replace than to repair the medical equipment or device previously provided by the minister, and
 - (b) the period of time, if any, set out in sections 3.1 to 3.12 of this Schedule, as applicable, for the purposes of this paragraph, has passed.
- (4) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was previously provided by the minister if it is more economical to repair the medical equipment or device than to replace it.
- (5) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was not previously provided by the minister if

- (a) at the time of the repairs the requirements in this section and sections 3.1 to 3.12 of this Schedule, as applicable, are met in respect of the medical equipment or device being repaired, and
- (b) it is more economical to repair the medical equipment or device than to replace it.
- (6) The minister may not provide a replacement of medical equipment or a medical device under subsection (3) or repairs of medical equipment or a medical device under subsection (4) or (5) if the minister considers that the medical equipment or device was damaged through misuse.

Section 69 of the EAPWDR provides as follows:

Health supplement for persons facing direct and imminent life threatening health need

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).

No resources- Ministry's position

The ministry's position is that as a medical services only recipient the appellant is eligible to receive health supplements under Section 62 of the EAPWDR, but the appellant's request for a supplement to cover the cost of repairs to her power wheelchair does not meet all of the applicable criteria of Section 3 of Schedule C of the EAPWDR. The ministry stated that the requirements in Section 3(1)(b)(ii) have not been met as there is insufficient information to show that there are no resources to the family unit to pay the cost or obtain the medical equipment or device. The ministry pointed out in the decision that the appellant's financial documents are lacking some vital information regarding credits to her bank account (income or other assets) to allow the ministry to determine the appellant's monthly income and identification of the withdrawals from her account to allow the ministry to determine if the expenditures are to provide for basic living necessities. The ministry pointed out that the Monthly Expenses and Recent Purchases statement dated August 2013 shows rent at \$880 which is not consistent with the withdrawal of \$1,094.13 on February 1, 2014, which is presumed to be for rent. The ministry stated that the appellant has sufficient resources to meet her general health supplement costs through her own resources as she had a balance of over \$800 in her bank account in January 2014.

Appellant's position

The appellant's position is that she does not have sufficient resources to pay the cost of the repairs to her power wheelchair. The appellant attached the statement of monthly income and expenses and pointed out that her monthly income is \$1,348.70 and her monthly rent is \$1,094.13, leaving a monthly balance of \$254.57 to cover the expenses shown, which are for items as needed monthly or annually. The appellant argued that the rent does not cover anything on the list of expenses, that it is a balancing act to juggle these expenses, and her present bank balance is \$122.73 as set out on her March bank statement.

Panel's decision

Section 3(1) of Schedule C states that the medical equipment and devices described in sections 3.1 to 3.12 of the Schedule are the health supplements that may be provided if all of the requirements are

met, including sufficient evidence to establish that there are no resources available to the family unit to pay the cost of or to obtain the medical equipment or device [Section 3(1)(b)(ii)]. The appellant requested a supplement to cover the cost of repairs to her power wheelchair and it is not disputed that the cost of the repairs to the medical equipment is a total of \$253.50, as set out in the Quote dated January 14, 2014 by a health supply company. The appellant pointed out that her monthly income is \$1,348.70 and her rent each month is \$1,094.13, leaving a monthly balance of \$254.57 available to her to cover a number of expenses, and she argued that she does not have the resources to pay for the repairs to her power wheelchair.

The appellant wrote in her Notice of Appeal that the rent of \$1094.13 does not cover anything on the list of expenses, such as meals, utility cost ("power"), contents insurance, telephone, and cable TV. The panel notes that the appellant currently spends over 80% of her monthly income on rent that does not include some of the expenses that are sometimes included with rent, such as utilities, telephone or cable TV, and that her rent has increased by \$214 per month since the Monthly Expenses and Recent Purchases statement was provided to the ministry in August 2013. The panel finds that the ministry reasonably concluded that there is not sufficient information provided for the ministry to determine that the appellant's expenditures are to provide for basic living necessities, as opposed to non-essential costs. There was also no information provided by the appellant to show that she had explored other resources in the community as alternate ways to cover the cost of the repairs and the panel finds that the ministry reasonably determined that there was not sufficient evidence to establish that there are no resources available to the family unit to pay the cost of or to obtain the medical equipment or device, thereby not meeting the requirement in Section 3(1)(b)(ii) of Schedule C of the EAPWDR.

Life-threatening health need- Ministry's position

The ministry's position is that there is no evidence of a direct and imminent life-threatening need for repairs to the appellant's power wheelchair, or evidence of any comorbidities that would substantiate a direct and imminent danger to life.

Appellant's position

In her Notice of Appeal dated March 19, 2014, the appellant attached a letter in which she wrote that she is over 65 years of age and she is wheel chair-bound and her power wheelchair provides her only mobility.

Panel's decision

While the appellant argued that her power wheelchair is essential to her mobility, she did not directly advance a position that the requested repairs to her power wheelchair are required because she faces a direct and imminent life threatening need. The panel finds that the ministry reasonably concluded that there is no information provided that demonstrates a life-threatening health need, as required under Section 69 of the EAPWDR.

Conclusion

In conclusion, the panel finds that the ministry's decision which denied the appellant's request for a supplement to cover the cost of repairs to her power wheelchair because the requirements in Section 3(1)(b)(ii) of Schedule C of the EAPWDR were not met, was reasonably supported by the evidence. Therefore, the panel confirms the ministry's reconsideration decision.