APPEAL #

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the "ministry") reconsideration decision of May 16th, 2014 wherein the ministry denied the appellant's request for funding for an insulin pump. The appellant is a recipient of disability assistance, and the ministry determined that the appellant was not eligible for the insulin pump as any of the following:

1. a non-conventional glucose meter, as provided in section 3.12 of Schedule C of the Employment and Assistance for Persons With Disabilities Regulation ("EAPWDR");
2. medical supplies, as provided in section 2(1)(a) of Schedule C of the EAPWDR;
3. medical equipment or devices, as provided in sections 3 to 3.11 of Schedule C;
4. a therapy service, as provided in sections 2(1)(c), 2(2) and 2(2.1) of Schedule C;
5. any health supplement under any other sections of Schedule C; or
6. as a health supplement for a person facing a direct and imminent life threatening need under section 69 of the EAPWDR.

## PART D – Relevant Legislation

EAPWDR section 62 *[general health supplements];* section 69 *[health supplement for persons facing direct and imminent life threatening health need]*; and Schedule C.

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## PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- December 1st, 2000 a letter from ministry to appellant denying the appellant's request for insulin pump.
- January 23rd, 2001 a letter from Health Assistance Branch (HAB) approving appellant's request for insulin pump;
- December 22nd, 2000 a letter from physician to ministry explaining the medical benefit to the appellant from an insulin pump;
- January 16th, 2001 letter from BC Benefits Reconsideration Decision regarding appellant's request for an insulin pump.
- December 10th, 2008 a letter from ministry to appellant denying his request for insulin pump;
- March 10th, 2009 a letter March 10th, 2009 from ministry approving appellant's request for insulin pump;
- June 5th, 2009 a letter from ministry approving appellant's request for blood glucose sensors which will be provided monthly with a review date of June 30th, 2010;
- August 10th, 2009 a letter dated from ministry approving appellant's request for blood glucose sensors which will be provided monthly with a review date of June 30th, 2010;
- November 14th, 2012 a letter from the appellant, with a letter of support from his doctor attached, requesting coverage for glucose sensors for his insulin pump;
- December 4th, 2012 a letter from ministry to appellant, with HAB Decision Summary attached, denying appellant's request for glucose sensors;
- January 14th, 2013 a letter from ministry approving appellant's request for blood glucose sensors with automatic renewal and no end date.
- January 30th, 2013 a letter from ministry approving appellant's request for insulin pump transmitter.
- February 25th, 2014 invoice from medical supply company for insulin pump which included a CGM (continuous glucose monitor) starter kit at no charge;
- February 21st, 2014 a letter dated to appellant from medical supply company regarding the appellant's purchase of an insulin pump.
    - the letter indicates that the appellant received an insulin pump on January 4th, 2009 with an out of warranty date of January 4th, 2013. The letter indicates that the appellant reported the following reason for replacement – technical features – does not have technical features required by patient/supported by physician's letter of medical necessity.
- February 25th, 2014 fax to HAB requesting coverage for insulin pump and monthly consumable supplies of approximately $573.50;
- February 26th, 2014 a letter of medical necessity completed by a specialist explaining the appellant's need for insulin pump;
    - in this letter the endocrinologist (specialist) indicates that the appellant has been insulin dependant for several years (40+) and that the appellant;
        - has demonstrated an ability to self-monitor blood glucose levels frequently;
        - is motivated to achieve and maintain blood glucose control;
        - demonstrates compliance with dietary and insulin regimens required for successful implementation of an insulin pump;
        - does not meet eligibility criteria for other government insulin pump programs;
        - exhibits hypoglycemia, nocturnal hypoglycemia, gastro-paresis and neuropathy;
    - the specialist reports that the appellant requires a replacement insulin pump to automatically halt insulin delivery when glucose levels reach a pre-determined threshold to prevent prolonged and severe hypoglycemia or manage nocturnal hypoglycemia (with use of continuous glucose monitoring).
- March 13th, 2014 HAB Medical Supply Decision Summary denying appellant's request for insulin pump;
- March 13th, 2014 a letter from the ministry to appellant denying the appellant's application for health supplement – insulin Pump.

- Request for reconsideration dated April 16th, 2014;

On the Letter of Medical Necessity form dated February 26th, 2014, the specialist has diagnosed the appellant with hypoglycemia, retinopathy, gastro-paresis and nocturnal hypoglycemia and that he requires a replacement insulin pump to continue pump technology so the insulin pump will automatically halt insulin delivery when glucose levels reach a pre-determined threshold. The specialist continued, this is to prevent prolonged and severe hypoglycemia or manage nocturnal hypoglycemia (with use of continuous glucose monitoring). On the same formatted form under "The following conditions exist with the patient:" the specialist indicates that: a) the patient has demonstrated ability to self-monitor blood glucose levels frequently; b) patient is motivated to achieve and maintain improved blood glucose control; c) patient demonstrates compliance with dietary and insulin regimens required for successful implementation of an insulin pump; and d) this patient does not (emphasis indicated on form) meet eligibility criteria for government insulin programs.

In the Notice of Appeal under reasons for appeal, the appellant stated that current legislation does not factor in current technology; and, exceptional situation necessitates special consideration.

The appellant did not attend the hearing. The appellant had completed a Release of Information form indicating that he wanted his representative (AR – appellant's representative) to attend the hearing and the AR could make decisions on his behalf.

Before the hearing commenced the AR requested an adjournment to further edit or correlate the appellant's evidence, information that was not before the Reconsideration officer, but had been submitted to the Reconsideration Branch. The AR provided the following documentation (20 pages) to the panel:

1. Pages 1-5 are appellant's Request for Reconsideration fax confirmation.
2. Page 6 – statutory interpretation principles for section 7 and 8 *Interpretation Act;*
3. Page 7 to 10 - submission from the AR providing information to support the appellant's position;
4. Page 11 and 12 – Fax cover page with a separate sheet dated May 15th 2014 and signed by the specialist providing further explanation of the his comments contained in the Letter of Medical Necessity which was signed on February 26th, 2014. In the notes the specialist explains that the insulin pump was covered by Medical Services plan 5 years ago at the insistence of the endocrinologist at the time; and that there are multiple reasons for continuing insulin pump therapy, including,
    - Hypoglycemia unawareness with autonomic neuropathy therefore hypoglycemia potentially life threatening;
    - Gastro-paresis (proven on gastric …undiscernible word… study)
    - Very low overnight insulin requirements of 0.1 – 0.2 units/hour from 2000 to 0400 (this is not possible with injection therapy).
5. Page 13 to 16 - Facsimile Transmittal Sheet dated February 25th, 2014 from Reimbursement Assistance Center to HAB with Letter of Medical Necessity, letter dated February 21st, 2014 from supplier of insulin pump providing the company policy on replacement of insulin pumps and appellant's reason for requesting a replacement pump and an invoice from supplier for a new insulin pump;
6. Page 17 and 18 – letter from HAB to appellant explaining rationale for denying appellant's request for insulin pump.
7. Page 19 and 20 – HAB Decision Summary dated March 13th 2014.

On the Request for Reconsideration form it indicates the appellant had until April 17th, 2014 to make a submission. On April 16th, 2014 the AR requested a 20 day extension and was advised by the Reconsideration Branch that all submission(s) had to reach that office before noon on May 16th, 2014 to be considered before the Reconsideration Decision was rendered. The AR advised that the material listed from 1 to 5 was sent to the Reconsideration Branch initially and items listed 2 to 4 were faxed May 16th, 2014 at 10:54am prior to the deadline of noon May 16th, 2014. When the AR reviewed the Reconsideration decision she learned that the material listed 2, 3 and 4 were not considered by the Reconsideration officer at the time of Reconsideration. The AR was advised to appeal the Reconsideration decision if the appellant did not agree with the ministry's

reconsideration decision. The AR was not given an explanation or reason on why the documents were not considered by Reconsideration officer but only told that the information would not have changed the decision. When the AR received the Appeal Record she noted that the material listed in items 2 to 4 were not included in the Appeal Record either and has therefore presented them to the panel for consideration.

The ministry stated they were not aware the extension had been approved but did not object to the panel receiving these documents for consideration.

The panel did not grant the appellant's request for an adjournment because the documents could be reviewed during the course of the hearing and accepted the documents for consideration. The AR agreed.

The panel finds that the material listed under items 1, 5, 6 and 7 are contained in the Appeal Record and are not considered new evidence as these documents were before the ministry at the time of Reconsideration. The panel finds Item 2 is a submission for argument and does not contain evidence.

The panel finds item 3 and item 4 do contain information being in support of the information and records that were before the ministry at the time of reconsideration and are admissible as evidence in accordance with section 22(4) of the *Employment and Assistance Act*.

At the hearing the AR stated that on January 23rd, 2001 and again, on March 10th, 2009 the ministry approved an insulin pump for the appellant and on August 10th, 2009 approved blood glucose sensors for the pump. The AR stated that the appellant's current insulin pump and the insulin pump he is requesting both have a glucose monitoring meter inside the pump, the difference is that the requested (new) pump will administer continuous low levels of insulin (0.1 or 0.2ml) when needed but will shut down preventing the appellant from receiving insulin when it is not needed. The AR told the panel that at the present time the appellant's insulin pump is working fine but the warranty period for the pump has expired and the company who provided the pump will not replace it now if the pump stops working. The AR advised the appellant utilizes a pump therapy versus a needle therapy to help control his diabetes. The AR stated the appellant resides with family as he cannot live alone because his glucose levels can drop to dangerous and life threatening levels without warning and within a time span of 15 minutes from the time of his last testing (reading) and without family there to assist him, he could be in a grave and imminent life threatening danger.

The panel finds the AR's testimony does contain information in support of the information and records that were before the ministry at the time of reconsideration and is admissible as evidence in accordance with section 22(4) of the *Employment and Assistance Act*.

APPEAL #

## PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the Ministry of Social Development and Social Innovation (the "ministry") reconsideration decision of May 16th, 2014 wherein the ministry denied the appellant's request for funding for medical purposes, an insulin pump. The appellant is a recipient of disability assistance, and the ministry determined that the appellant was not eligible for the insulin pump as any of the following:

1. a non-conventional glucose meter, as provided in section 3.12 of Schedule C of EAPWDR;
2. medical supplies, as provided in section 2(1)(a) of Schedule C of the EAPWDR;
3. medical equipment or devices, as provided in sections 3 to 3.11 of Schedule C;
4. a therapy service, as provided in sections 2(1)(c), 2(2) and 2(2.1) of Schedule C;
5. any health supplement under any other sections of Schedule C; or
6. a health supplement for a person facing a direct and imminent life threatening need under section 69 of the EAPWDR.

The legislation considered: **EAPWDR**

**Health supplement for person facing direct and imminent life threatening health need**

Section 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).

**Schedule C**

**General health supplements**

Section 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; ...

Section 2(1.1) of Schedule C, provides that for the purposes of subsection 2(1)(a), "medical or surgical supplies" do not include nutritional supplements, food, vitamins, minerals or prescription medications.

Section 2(1)(c) provides that the following items are health supplements if the other criteria of the section are met: a service for acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, physiotherapy.

Section 2(1)(f) of Schedule C provides that the following items are health supplements if the other criteria of the section are met: the least expensive appropriate mode of transportation.

Section 2(3) of Schedule C provides that "If the minister provided a benefit to or for a person under section 2(3) of Schedule C of the Disability Benefits Program Regulation, B.C. Reg. 79/97, the Income Assistance Regulation, B.C. Reg. 75/97 or the Youth Works Regulation, B.C. Reg. 77/97, as applicable, for the month during which the regulation was repealed, the minister may continue to provide that benefit to or for that person as a supplement under this regulation on the same terms and conditions as previously until the earlier of the following dates:
(a) the date the conditions on which the minister paid the benefit are no longer met;
(b) the date the person ceases to receive disability assistance.

Section 2.1 of Schedule C provides that the following are the optical supplements that may be provided under Section 62.1 of the EAPWDR: basic eyewear and repairs, pre-authorized eyewear and repairs.

Section 2.2 of Schedule C provides that the minister may pay a health supplement under Section 67.2 of the EAPWDR for an eye examination if the other criteria of the section are met.

**Medical equipment and devices**

Section 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.

(2) For medical equipment or devices referred to in sections 3.1 to 3.8, 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. ...

Section 3.1 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a cane, a crutch, a walker, an accessory to a cane, a crutch or a walker.

Section 3.2 provides that the following items are health supplements for the purposes of section 3 if the other criteria of the section are met: a wheelchair, an upgraded component of a wheelchair, an accessory attached to a wheelchair.

Section 3.3 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a wheelchair seating system, an accessory to a wheelchair seating system.

Section 3.4 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a scooter, an upgraded component of a scooter, an accessory attached to a scooter.

Section 3.5 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a grab bar in a bathroom, a bath or shower seat, a bath transfer bench with hand held shower, a tub slide, a bath lift, a bed pan or urinal, a raised toilet seat, a toilet safety frame, a floor-to-ceiling pole in a bathroom, a portable commode chair.

Section 3.6 provides that the following items are health supplements for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a hospital bed, an upgraded component of a hospital bed, an accessory attached to a hospital bed.

Section 3.7 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a pressure relief mattress.

Section 3.8 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a floor or ceiling lift device.

Section 3.9 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: positive airway pressure device.

Section 3.10 provides that each of the following items is an orthosis which is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a custom-made foot orthotic, custom-made footwear, a permanent modification to footwear, an ankle brace, an ankle-foot orthosis, a knee-ankle-foot orthosis, a knee brace, a hip brace, an upper extremity brace, a cranial helmet, a torso or spine

brace.

Section 3.11 provides that the following item is a health supplement for the purposes of section 3 of the Schedule, if the other criteria of the section are met: a hearing aid.

**Medical Equipment and devices – non-conventional glucose meters**
Section 3.12
(1) In this section, "non-conventional glucose meter" includes
(a) a continuous glucose monitoring meter, and
(b) a talking glucose meter.
(2) A non-conventional glucose meter is a health supplement for the purposes of section 3 of this Schedule if the minister is satisfied that
(a) the glucose meter is medically essential to test blood glucose levels, and
(b) the person for whom the non-conventional glucose meter has been prescribed is unable to use a conventional glucose meter.
(3) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of a non-conventional glucose meter is 5 years from the date on which the minister provided the glucose meter being replaced.

Section 4 of Schedule C provides that the health supplement that may be paid under section 63 [*dental supplements*] are basic dental services, if the other criteria of the section are met.

Section 4.1 provides that the health supplement may be paid under section 63.1 for crown and bridgework, if the other criteria of the section are met.

Section 5 of Schedule C provides that the health supplement that may be paid for under Section 64 of the EAPWDR is emergency dental services.

Section 6 of Schedule C provides that the amount of a diet supplement that may be provided under section 66 [*diet supplements*] is set out for various conditions, if the other criteria of the section are met.

Section 7 of Schedule C provides as follows:

The amount of a nutritional supplement that may be provided under section 67 *[nutritional supplement]* of this regulation is the sum of the amounts for those of the following items specified as required in the request under section 67 (1) (c):
(a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to $165 each month;
(b) Repealed. [B.C. Reg. 68/2010, s. 3 (b).]
(c) for vitamins and minerals, up to $40 each month.

Section 8 of the Schedule provides that the amount of a natal supplement that may be provided under section 68 [*natal supplements*] is set out, if the other criteria of the section are met.

Section 9 of the Schedule provides that the minister may provide infant formula under section 67.1 of the EAPWDR if the other criteria of the section are met.

**Eligibility for insulin pump as medical equipment**

The EAPWDR Schedule C, section 3 sets out the general requirements for all medical equipment/devices and section 3(1)(b) EAPWDR states the minister may provide the least expensive appropriate medical device described in section 3.1 to 3.12 if, (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.

The ministry's position is the family has requested authorization for the insulin pump however the ministry cannot provide medical equipment without legislated authority and an insulin pump is not a scheduled item described in section 3 of Schedule C of EAPWDR. The ministry accepts that the appellant does not have the finances to purchase an insulin pump, however, the ministry is not satisfied that the appellant does not have resources available, i.e. Ministry of Health, Canadian Diabetes Association) to obtain the medical equipment.

The AR argued that the insulin pump requested by the appellant is only available from the requested supplier and that the appellant's application to Ministry of Health (PharmaCare) for an insulin pump had been denied. The AR argued that the appellant had been provided an insulin pump on two previous occasions and it didn't seem right that his request to have the insulin pump replaced be denied.

Schedule C Section 3(1) states that the medical equipment and devices described in section 3.1 to 3.2 of Schedule C are the health supplements that may be provided by the minister if all the legislated criteria are met.

Panel Decision

**Available resources – Section 3(1)(b) Schedule C**

The panel finds that there is not sufficient information before the panel that the appellant exhausted all resources available to obtain an insulin pump. The panel finds that although an item may have been provided by the ministry in the past, the ministry must be comply with the current legislation and has no discretion to vary from the legislation set out in EAPWDR or EAPWDA.

The panel finds that the ministry reasonably determined that all the legislated criteria set out in section 3(1)(b) EAPWDR were not satisfied.

**A Non-Conventional Glucose Meter – section 3.12 Schedule C, Medical Equipment and Devices**

The ministry's position is that an insulin pump is not a Non-Conventional Glucose meter and does not meet the definition set out in section 3.12(2) EAPWDR. The ministry's position is that insulin pumps dispenses insulin and a continuous glucose monitoring meter uses a tiny sensor inserted under the skin to check glucose levels in tissue fluid. The ministry argues that glucose meters do not dispense insulin, simply monitor glucose levels and then a transmitter will send this information via radio waves from the sensor to a pager-like wireless monitor. The ministry argued that these devices provide real-time measurements of glucose levels which can be displayed at 5-minute or 1-minute intervals. The ministry argues it is only authorized to provide a continuous glucose monitoring meter or a talking glucose meter and not a glucose monitoring and insulin dispensing system.

It is the appellant's position there is a continuous glucose monitoring meter inside the present insulin pump which was provided by the ministry in 2009 and the insulin pump that is being requested is also equipped with a continuous glucose monitoring meter.

*Panel Decision*

The panel finds the appellant's request was for funding for an insulin pump and not a continuous glucose monitoring meter although his current insulin pump, which was provided by the ministry in 2009, is equipped with a continuous glucose meter. The panel finds the meaning of a continuous glucose meter does not include the term insulin pump.

The panel finds the ministry's decision that the appellant could not be provided with an insulin pump because an insulin pump is not a non-conventional glucose meter as defined in section 3.12, Schedule C of EAPWDR was reasonable.

**Other medical equipment or devices (sections 3.1 to 3.11 of Schedule C)**

The appellant advanced no argument with respect to these provisions.

The ministry's position is that the insulin pump is not a health supplement that the ministry is authorized to provide under sections 3.1 to 3.11 of Schedule C of the EAPWDR. The ministry also contends that the evidence does not establish that the other legislated criteria set out in these sections for each of the health supplements have been met.

*Panel Decision*

The evidence before the panel indicates that the insulin pump does not constitute any of the health supplements authorized in sections 3.1 to 3.11 of Schedule C.

Accordingly, the panel finds that the ministry reasonably determined that the legislated criteria for these provisions had not been satisfied.

**Insulin Pump as medical supply – (section 2(1)(a) Schedule C)**

The appellant advanced no argument with respect to these provisions.

The ministry's position is that the insulin pump is not a disposable or reusable medical supply required for one of the purposes set out in section 2(1)(a)(i) EAPWDR; nor surgical supplies set out in section 2(1)(a.1) or consumable medical supplies as set out in section 2(1)(a.1) EAPWDR.

*Panel Decision*

The evidence before the panel indicates that the insulin pump is not either disposable or reusable medical supplies as identified in sections 2(1)(a), 2(1)(a.1) or 2(1)(a.2).

Accordingly, the panel finds that the ministry reasonably determined that the legislated criteria for these provisions had not been satisfied.

**Other remaining health supplements (Schedule C)**

The appellant advanced no argument with respect to sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 or 9 of Schedule C.

The ministry's position is that the insulin pump is not authorized by any of these remaining provisions of Schedule C.

*Panel Decision*

The evidence before the panel indicates that the insulin pump does not meet the legislated criteria for any of the above-noted provisions.

Accordingly, the panel finds that the ministry reasonably determined that the legislated criteria for these provisions have not been satisfied.

**Direct and imminent life threatening need (Section 69, EAPWDR)**

The ministry's position is that the appellant is eligible to receive health supplements set out under Schedule C, sections 2(1)(a) to (f), and section 3 if the legislated criteria are satisfied. The ministry argued that the insulin pump is not a health supplement set out in these sections which is a requirement of section 69(d). The ministry could not provide any rationale on why the ministry approved the insulin pump in 2009, as to the ministry's knowledge, an insulin pump has never been listed as medical equipment/device in Schedule C section 3 EAPWD. The ministry stated they only have authority to provide items under section 69 EAPWDR that are listed in section 3, Schedule C EAPWDR.

The AR argues the benefit of the new pump is that the pump can dispense the insulin at night subject to the appellant's glucose levels at small amounts (0.i or 0.2 units) and, if necessary, can shut down if glucose levels are too high preventing the appellant from receiving too much insulin which is equally dangerous. The AR argued all this information is determined by the monitoring technology within the pump. The AR stated that the insulin pump technology has extended the appellant's life expectancy and the appellant is concerned that if he does not continue his regime and continue to take advantage of the latest technology to assist him, especially with his nocturnal hypoglycemia, his life will continue to be at risk. The AR added when the specialist completed the Letter of Medical Necessity he didn't give his full opinion and based his assessment on the new technology.

Panel Decision

The evidence before the panel indicates that the appellant is otherwise eligible for health supplements under sections 2 and 3 of Schedule C. Section 69 is meant to apply to family units that are not otherwise eligible but do meet the legislated criteria. As previously discussed, the evidence also indicates that an insulin pump is not a medical or surgical supply identified in section 2(1)(a), nor a mode of transportation identified in section 2(1)(f), and that the criteria for health supplements in sections 3 to 3.12 have not been satisfied.

**Conclusion**

For the foregoing reasons, the panel concludes that ministry's decision is reasonably supported by the evidence. The panel therefore confirms the ministry's decision.