



PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated July 23, 2014 that denied the appellant's application for funds to cover the cost of compression stockings. The request was denied because the ministry determined that it did not meet the criteria set out in Employment and Assistance Regulation, schedule C, sub 2. The ministry found that the appellant's request met the requirement that the item be reusable for the purpose of limb circulation and that the request was prescribed by her medical practitioner, however, the ministry determined that there was no evidence that the compression stockings were necessary to avoid an imminent and substantial danger to her health.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR) section 67
Employment and Assistance Regulation, schedule C, sub 2



PART E – Summary of Facts

The information before the ministry at the time of reconsideration included the following:

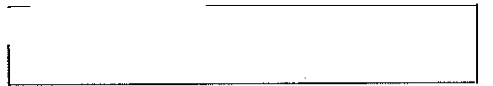
- A receipt in the amount of \$95.00 in the name of the appellant dated September 21, 2013 for compression stockings.
- A receipt in the amount of \$54.23 from a drug store. The purchase was for probiotic, ca/mag tablets, and toothpaste.
- A prescription from the appellant's physician undated. The physician writes, "patient with history of varicose veins require compression stocking with 30-40 mmHg life long."
- A Request for Reconsideration form dated July 7, 2014 in that the appellant writes the request for the compression stockings are for her and not her husband.

The appellant submitted new evidence with her Notice of Appeal and at the hearing. The documents were accepted as evidence as per the Employment and Assistance Act section 22 (4). The panel found that the evidence contained in the document is in support of evidence that was before the ministry at the time of the reconsideration because it provided details about her condition and financial situation. The ministry did not object to the new evidence. The evidence is:

- A letter from the appellant stating her husband will begin receiving Old Age Security (OAS) benefits beginning October 2014.
- A cheque stub in the name of the appellant and her husband dated Aug 27, 2014 showing they received \$301.56 for the month.
- A bank statement in the name of the appellant dated August 13, 2014.
- A budget completed by the appellant detailing her monthly income and expenses.
- An information sheet printed from HealthLinkBC giving an overview of deep vein thrombosis.
- An article printed from a vascular disease foundation website that provides details about deep vein thrombosis.

At the hearing the appellant told the panel she was diagnosed with deep vein thrombosis in 2006 and she had surgery in 2008. The condition causes her severe pain in her legs, swelling, and burning sensation in her ankles. She told the panel that her doctor prescribed compression stockings to provide relief from the pain and help prevent blood clots from causing more serious health issues including death. The appellant added that she provided details of her personal budget, bank account, and OAS details to demonstrate that she does not have the capacity to buy the compression stockings on her own.

At the hearing the ministry provided a document to the panel at the hearing. The document was intended to help explain how the ministry came to its reconsideration decision regarding the definition of "Imminent and Substantial" when interpreting the legislated criteria. The document was a printout of the internal ministry policy on how to interpret the criteria for eligibility for medical supplies. The policy defines "Imminent and Substantial" danger as an immediate need for medical supplies where, without the medical supplies, the person is at risk for compromised health. The panel found that that this information formed part of the ministry's argument versus being new evidence. The ministry told the panel that, according to the ministry's interpretation of the legislation, the appellant has not provided evidence that the compression stockings are required for her to prevent imminent and substantial danger to her health. The ministry added that the appellant has satisfied the other criteria in the applicable legislation and if her doctor were to include on his prescription that the compression stockings are necessary to prevent imminent and substantial danger to her health, her request would



likely be approved.

PART F – Reasons for Panel Decision

The decision under appeal is the reasonableness of the ministry's decision to deny the appellant's application for funds to cover the cost of compression stockings. The ministry determined that it did not meet the criteria set out in the applicable legislation. The ministry found that the appellant's request met the requirement that the item be reusable for the purpose of limb circulation and that the request was prescribed by her medical practitioner, however, the ministry determined that there was no evidence that the compression stockings were necessary to avoid an imminent and substantial danger to her health.

The applicable legislation is the EAR section 67 and the EAR schedule C, sub 2.

General health supplements

67 (1) Subject to subsection (1.1), 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

(a) is a recipient of income assistance under section 2 [monthly support allowance], 4 [monthly shelter allowance], 6 [people receiving room and board] or 9 [people in emergency shelters and transition houses] of Schedule A if

(i) any person in the family unit is a person who has persistent multiple barriers to employment, and

(ii) the recipient does not receive a federal spouse's allowance or guaranteed income supplement benefits.

(iii) Repealed. [B.C. Reg. 57/2007, s. 1.]

(b) is a recipient of income assistance under section 8 [people receiving special care] of Schedule A,

(c) is a dependant of a person referred to in

(i) paragraph (b),

(ii) paragraph (f), if the dependant was a dependant of the person on the day the person reached 65 years of age and remains a dependant of that person,

(iii) paragraph (g), if the dependant was a dependant of the person on the day the person's family unit ceased to be eligible for income assistance as a result of a payment made to the person or another member of the person's family unit under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry, or

(iv) paragraph (h), if the dependant was a dependant of the person on the day the person's family unit ceased to be eligible for income assistance as a result of an award of compensation under the Criminal Injury Compensation Act or an award of benefits under the Crime Victim Assistance Act made to the person or another member of the person's family unit, and

(A) if the dependant is under age 65, the family unit is receiving premium assistance under the Medicare Protection Act, or

(B) if the dependant is aged 65 or more, any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,

(d) Repealed. [B.C. Reg. 48/2010, Sch. 1, s. 1 (b).]

(e) is a dependent child of a recipient of income assistance or hardship assistance,

(f) was on the day the person reached 65 years of age

(i) a recipient of income assistance under section 2 [monthly support allowance], 4 [monthly shelter allowance], 6 [people receiving room and board], 8 [people receiving special care] or 9 [people in emergency shelters and transition houses] of Schedule A, and

(ii) eligible for health supplements under section 2 [general health supplements] or 3 [medical equipment and devices] of Schedule C,

(g) meets the following requirements:

(i) has not reached 65 years of age;

(ii) is a part of a family unit that ceased to be eligible for income assistance as a result of a payment made to the person or another member of the person's family unit under the settlement agreement approved by the Supreme Court in Action No. S50808, Kelowna Registry;

(iii) was eligible for health supplements under section 2 or 3 of Schedule C on the day the person's family unit ceased to be eligible for income assistance, or

(h) meets all of the following requirements:

(i) is part of a family unit that ceased to be eligible for income assistance as a result of an award of compensation under the Criminal Injury Compensation Act or an award of benefits under the Crime Victim Assistance Act made to the person or another member of the person's family unit;

(ii) was eligible for health supplements under section 2 or 3 of Schedule C on the day the person's family unit ceased to be eligible for income assistance;

(iii) either

(A) if the person is under age 65, the family unit is receiving premium assistance under the Medicare Protection Act, or

(B) if the person is aged 65 or more, any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement.

EAR schedule C, section 2

General health supplements

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 67 [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;

The argument of the appellant is that she requires the compression stockings to relieve pain and to prevent blood clotting in her legs that could lead to her death.

The argument of the ministry is that the appellant does not qualify to have the cost of the compression stockings covered by the ministry because it determined that there was no evidence that the compression stockings were necessary to avoid an imminent and substantial danger to her health.

As the ministry is satisfied that the appellant meets all but one of the required criteria, the panel will determine the reasonableness of the ministry decision to deny her on that criterion. The ministry was not satisfied that if the appellant did not receive the compression stockings she would be subject to imminent and substantial danger to her health. The panel considered the information sheets the appellant provided however these provide general facts about her condition, including that compression stockings can be used as a treatment, however they are not useful in determining the likelihood that she would face imminent and substantial danger to her health if she did not receive them. The panel reviewed the prescription from the physician and, while it indicates the appellant requires the compression stockings, it does not include any information about how she will be affected without them. The panel finds that, based on the information that was before the ministry at the time of the reconsideration decision, the ministry was reasonable to determine that she did not meet the criterion that she would be subject to imminent and substantial danger to her health without the compression stockings. The panel finds that the new evidence submitted by the appellant at the hearing, and with her notice of appeal, provides general information about the condition that she suffers from. These information sheets do not provide specific detail that, in her case, she would face imminent and substantial danger to her health if she did not receive the compression stockings.

Regarding the appellant's submission of her financial budget and her argument that she has no ability to buy the stockings on her own, the panel notes her ability to pay for the stockings was not a given as a reason for denial by the ministry. The ministry is satisfied that the criterion in the EAR schedule C, section 2(1)(iii) requiring that "there are no other resources available to the family unit to pay for the supplies" has been met.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.