

## PART C – Decision under Appeal

The Appellant appeals the Ministry of Social Development and Social Innovation (Ministry) reconsideration decision dated May 16, 2014 in which the Ministry denied the Appellant's request for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion as a health supplement under the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The Ministry found that the requested items are not eligible under the following sections of EAPWDR Schedule C:

1. Positive Airway Pressure Devices, section 3.9;
2. Medical supplies, section 2(1)(a);
3. Health supplements, sections 3 and 3.1 to 3.11;
4. Therapy pursuant to sections 2(1)(c), 2(2), and 2(2.1); and
5. Remaining health supplements, sections 2.1, 2.2, 4, 4.1, and 5 – 9.

The Ministry further found that the requested items do not meet the legislated criteria as a nutritional supplement pursuant to section 67 or as a life-threatening health need under section 69 of the EAPWDR.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation sections 62, 67, 69 and Schedule C, Health Supplements, sections 2(1)(a) and (c), 2(2), 2(2.1), 2.1, 2.2, 3, 3.1 - 3.11, 4, 4.1 and 5 - 9.

## PART E – Summary of Facts

The evidence before the Ministry at the reconsideration included:

1. A prescription from a physician dated May 12, 2014 stating that the Appellant requires “EZ reacher, high density cushion, sock aid, and shoe horn to maintain hip precaution to maintain independent living.”
2. The Appellant’s Request for Reconsideration dated May 7, 2014 with the following attached documents:
  - (a) A letter from the Ministry to the Appellant dated April 7, 2014 denying the requested items as they are not eligible items according to the EAPWDR.
  - (b) A Ministry *Medical Equipment Request and Justification* form signed by a physician on April 2, 2014. The physician indicated that the Appellant’s medical condition is Hip Dysplasia, and recommended a “shoe horn, EZ reacher, stocking, and cushion”. The form was also endorsed by a therapist on April 2, 2014 who stated that the Appellant “will require the following equipment to follow the post op [illegible] demanded by the surgery: shoe horn, reacher, sock aid, and 4 x 16 x16 foam cushion”.
  - (c) A *Hip and Knee Surgery Patient Equipment List* from a Health Authority date stamped April 2, 2014. Items that are check marked for hip surgery patients include a “High density (firm) foam cushion...needed for going home in the car”; and “Dressing equipment (long handled reacher, long handled shoe horn and sock aid”. These items are noted as not being available through the Red Cross and must be purchased at a medical supply store.
  - (d) A quotation from a medical supply store dated April 1, 2014 for “Blue max shoe horn, E-Z reacher delux, molded stocking sock aid, and seating cushions 4 in. x 18 in. x 18 in.”, with a total cost of \$130.98.
  - (e) A copy of EAPWDR legislation.
  - (f) A 3-page submission from the Appellant dated May 7, 2014 in which she stated that she is wholly dependent on her (male) roommates to assist her with daily living activities including dressing, bathing, toileting, shopping, meal preparation, cleaning, etc. In addition, while the Appellant is home bound she is restricted to her bed because she has not been provided with a seating cushion to allow her to sit on other furniture aside from her bed, commode, and raised toilet seat. She stated that she is also at risk of injury to her hip replacement and risks dislocation without the appropriate cushion during transportation to medical appointments.
  - (g) A copy of a publication from the BC Human Rights Coalition titled *Human Rights Law: An Overview (provided for informational purposes)*.
  - (h) A copy of a publication from the BC Human Rights Coalition titled *Before Filing a Complaint*.
  - (i) A letter from a registered social worker and an occupational therapist addressed To Whom it May Concern and dated April 9, 2014. It states that the Appellant underwent “right total hip arthroplasty April 7, 2014”. Her medical condition requires that she maintain 90 degree hip flexion precautions at all times for three months, and the e-z reacher, molded stocking/sock aid, shoe horn and seating cushion are medically required adaptive devices needed to protect the hip from dislocation during day-to-day activity. The items are medically necessary for a safe and successful recovery from surgery.

(i) A copy of a health authority publication titled *Recovering from Hip or Knee Joint Replacement Surgery: How to Care for Yourself at Home*. The publication recommends sitting on a raised chair or bed and using adaptive aids such as a long-handled reacher, sock aid, and shoe horn when getting dressed.

The Ministry relied on its reconsideration decision and did not provide any additional submissions for the hearing. The Ministry noted that the Appellant is a recipient of disability assistance and therefore meets the basic eligibility requirement for health supplements provided under section 62 and Schedule C of the EAPWDR. The Ministry also acknowledged that the requested items were prescribed by the Appellant's medical practitioner.

## PART F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's reconsideration decision of May 16, 2014 denying the Appellant's request for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion on the basis that the request does not meet the eligibility criteria set out in Schedule C and sections 67 and 69 of the EAPWDR, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant.

### *Legislation - EAPWDR*

#### **62 General health supplements**

(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

- (a) A recipient of disability assistance

The Ministry acknowledged that the Appellant is eligible for health supplements pursuant to section 62 but found that the Appellant was not eligible for the requested items under the following sections of the EAPWDR:

#### **67 Nutritional supplement**

(3) The minister may provide a nutritional supplement for a period of 3 calendar months to or for a family unit if the supplement is provided to or for a recipient of disability assistance or a dependent child of a recipient of disability assistance if

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

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 found that the Appellant was not eligible for the requested items under the following sections of EAPWDR Schedule C:

### **Schedule C - 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 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.

- (c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,
- (i) for which a prescribed by a medical practitioner or nurse practitioner has confirmed an acute need,
  - (ii) if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and
  - (iii) for which there are no resources available to the family unit to cover the cost:

Item	Service	Provided by	Registered with
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the <i>Health Professions Act</i>
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i> (B.C. Reg. 420/2008)
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <i>Health Professions Act</i>
4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the <i>Health Professions Act</i>
5	non-surgical podiatry	podiatrist	College of Podiatric Surgeons of British Columbia under the <i>Health Professions Act</i> (B.C. Reg. 169/2010)
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the <i>Health Professions Act</i>

(2) No more than 12 visits per calendar year are payable by the minister under this section for any combination of physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services.

(2.1) If eligible under subsection (1) (c) and subject to subsection (2), the amount of a general health supplement under section 62 of this regulation for physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services is \$23 for each visit.

## **2.1 Optical supplements**

## **2.2 Eye examination supplements**

## **3 Medical equipment and devices**

(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: (B.C. Reg. 197/2012)

(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 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.

### **3.1 Medical equipment and devices – canes, crutches and walkers**

### **3.2 Medical equipment and devices – wheelchairs**

### **3.3 Medical equipment and devices – wheelchair seating systems**

### **3.4 Medical equipment and devices - scooters**

### **3.5 Medical equipment and devices – bathing and toileting aids**

(1) The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate toileting or transfers of a person or to achieve or maintain a person's positioning:

- (a) a grab bar in a bathroom;
- (b) a bath or shower seat;
- (c) a bath transfer bench with hand held shower;
- (d) a tub slide;
- (e) a bath lift;
- (f) a bed pan or urinal;
- (g) a raised toilet seat;
- (h) a toilet safety frame;
- (i) a floor-to-ceiling pole in a bathroom or bedroom;
- (j) a portable commode chair;
- (k) a standing frame for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;
- (l) a positioning chair for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;
- (m) a transfer aid for a person for whom the transfer aid is medically essential to transfer from one position to another.

(2) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

### **3.6 Medical equipment and devices – hospital bed**

### **3.7 Medical equipment and devices – pressure relief mattresses**

### **3.8 Medical equipment and devices – floor or ceiling lift devices**

### 3.9 Medical equipment and devices – positive airway pressure devices

(1) Subject to subsection (4) of this section, the following items are health supplements for the purposes of section 3 of this Schedule:

(a) if all of the requirements set out in subsection (2) of this section are met:

- (i) a positive airway pressure device,
  - (ii) an accessory that is required to operate a positive airway pressure device, or
  - (iii) a supply that is required to operate a positive airway pressure device;
- (b) if the minister is satisfied that the item is medically essential to monitor breathing,
- (i) an apnea monitor,

- ii) an accessory that is required to operate an apnea monitor, or

- iii) a supply that is required to operate an apnea monitor;

(c) if the minister is satisfied that the item is medically essential for clearing respiratory airways,

- (i) a suction unit,

- ii) an accessory that is required to operate a suction unit, or

- iii) a supply that is required to operate a suction unit;

(d) if the minister is satisfied that the item is medically essential for clearing respiratory airways,

- (i) a percussor,

- ii) an accessory that is required to operate a percussor, or

- iii) a supply that is required to operate a percussor;

(e) if the minister is satisfied that the item is medically essential to avoid an imminent and substantial danger to health,

- (i) a nebulizer,

- ii) an accessory that is required to operate a nebulizer, or

- iii) a supply that is required to operate a nebulizer;

(f) if the minister is satisfied that the item is medically essential to moisturize air in order to allow a tracheostomy patient to breathe,

- (i) a medical humidifier,

- ii) an accessory that is required to operate a medical humidifier, or

- iii) a supply that is required to operate a medical humidifier;

(g) if the minister is satisfied that the item is medically essential to deliver medication,

- (i) an inhaler accessory device,

- ii) an accessory that is required to operate an inhaler accessory device, or

- iii) a supply that is required to operate an inhaler accessory device;

(2) The following are the requirements in relation to an item referred to in subsection (1) (a) of this section:

(a) the item is prescribed by a medical practitioner or nurse practitioner;

(b) a respiratory therapist has performed an assessment that confirms the medical need for the item;

(c) the minister is satisfied that the item is medically essential for the treatment of moderate to severe sleep apnea.

### 3.10 Medical equipment and devices - orthoses

(1) In this section,

“**orthosis**” means;

(a) a custom-made or off-the-shelf foot orthotic;

(b) custom-made footwear;

(c) a permanent modification to footwear;



- (d) off-the-shelf footwear required for the purpose set out in subsection (4.1) (a);
- (e) off-the-shelf orthopaedic footwear;
- (f) an ankle brace;
- (g) an ankle-foot orthosis;
- (h) a knee-ankle-foot orthosis;
- (i) a knee brace;
- (j) a hip brace;
- (k) an upper extremity brace;
- (l) a cranial helmet used for the purposes set out in subsection (7);
- (m) a torso or spine brace;

- (n) a foot abduction orthosis;
- (o) a toe orthosis.

(2) Subject to subsections (3) to (11) of this section, an orthosis is a health supplement for the purposes of section 3 of this Schedule if

- (a) the orthosis is prescribed by a medical practitioner or a nurse practitioner,
- (b) the minister is satisfied that the orthosis is medically essential to achieve or maintain basic functionality,
- (c) the minister is satisfied that the orthosis is required for one or more of the following purposes:
  - (i) to prevent surgery;
  - (ii) for post-surgical care;
  - (iii) to assist in physical healing from surgery, injury or disease;
  - (iv) to improve physical functioning that has been impaired by a neuro-musculo-skeletal condition,and
- (d) the orthosis is off-the-shelf unless;

### **3.11 Medical equipment and devices - hearing instrument**

#### **4 Dental supplements**

##### **4.1 Crown and bridgework supplement**

##### **5 Emergency dental supplements**

##### **6 Diet supplements**

##### **7 Monthly nutritional supplement**

##### **8 Natal supplement**

##### **9 Infant Formula**

*Appellant's position*

In her Notice of Appeal dated September 17, 2014 the Appellant argued that the Ministry should not be making decisions about her healthcare and medically necessary equipment based on legislation that the Ministry cannot follow with regard to time limits for making a decision, and without a medical degree to know what is in the best interests of her health, surgical recovery and disability. The Appellant stated that the Ministry arbitrarily changed the legislation in 2010 without having the medical establishment determine what is necessary for people with disabilities. It took her three in-office requests and four phone calls over four months to receive the reconsideration decision and the Ministry had misspelled her name.

The Appellant argued that clients are put at greater risk of imminent danger, and are discriminated against on the basis of their disability whenever the Ministry demonstrates a lack of accountability and understanding of particular situations, and because the Ministry has a culture of refusing client requests in the hope of saving money. She argued that most PWD clients do not understand the reconsideration and appeal process to fight for their rights, and clients suffer when the Ministry does not follow its own guidelines and legislation.

In her 3-page submission of May 7, 2014 the Appellant argued that the Ministry discriminated against her on the basis of her disability by denying the medically necessary items that she requested. She argued that the legislation creates "adverse differential treatment" by providing medically necessary equipment for some disabilities but not all. She further argued that the legislation also prevents the provision of a crisis supplement to prevent imminent danger to the physical health of any person in the family unit.

The Appellant submitted that her dignity and self-respect are injured because she is forced to choose between using her support monies for medical equipment and items not covered by the Medical Services Plan versus healthy food. She said that her ability to live independently is significantly affected and she has suffered numerous embarrassing moments from having to rely on her male roommates to assist her with dressing, bathing and toileting. The lack of a seating cushion restricts where she can sit and she is at risk of injury to her hip replacement when using transportation. She requested a reconsideration of the Ministry's decision so that she would not have to seek a remedy under human rights legislation, specifically, to have the (EAPWDR) legislation changed and to ask for compensation for injury to dignity.

*Panel's jurisdiction*

The jurisdiction (authority) of the Employment and Assistance Appeal Tribunal panel is set out in the *Employment and Assistance Act* (EAA). Section 24(1) of the EAA provides that, after holding a hearing, the panel must determine whether the decision being appealed is reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision. If the panel finds that the decision under appeal is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of an appellant, section 24(2)(a) of the EAA expressly states that the panel must confirm the decision under appeal. If the panel finds that the decision under appeal is not reasonably supported by the evidence or is not a reasonable application of the enactment to the appellant's circumstances, section 24(2)(b) of the EAA expressly states that the panel must rescind the decision.

The panel has no jurisdiction under the EAA, to rescind a decision under appeal on the basis that the legislation is inadequate, discriminates against persons with disabilities, or was arbitrarily changed to save the Ministry money as argued by the Appellant. The panel acknowledges the Appellant's frustration with reportedly having her name misspelled and not receiving the decision in a timely manner. The reconsideration decision is dated May 16, 2014 but the Appellant indicated in her Notice of Appeal that she did not receive the decision until September 12, 2014, a delay of approximately four months.

The panel further acknowledges that the information from the Appellant's physician, social worker, and occupational therapist confirms that the items she requested are medically necessary following hip surgery. However, the Ministry specifically found that the Appellant was not eligible for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion pursuant to Schedule C and sections 67 and 69 of the EAPWDR and it is the reasonableness of that reconsideration decision that the panel is authorized to determine. The Ministry argued that the following criteria were not met:

#### Section 3.9 of Schedule C

##### *Ministry's position*

The Ministry was not satisfied that the requested items are a positive airway pressure device; or an accessory or supply required to operate a positive airway pressure device pursuant to subsection 3.9(1). The Ministry determined that although the requested items were prescribed by a medical practitioner, the information provided does not establish that a respiratory therapist has performed an assessment that confirms the medical need for the items or that the items are medically essential for treating sleep apnea pursuant to subsection 3.9(2). Furthermore, the Ministry's policy exception does not apply to the items requested by the Appellant.

##### *Panel's decision*

This section of the EAPWDR sets out the eligibility criteria for a health supplement for a positive airway pressure device and related accessories. The Appellant clearly did not request such a device and the panel finds that the Ministry reasonably determined that the Appellant is not eligible for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion under section 3.9 of Schedule C.

#### Section 2(1)(a) of Schedule C

##### *Ministry's position*

The Ministry argued that the Appellant is not eligible for the items as a medical supply because the items requested are not required for one of the purposes set out in subsection 2(1)(a)(i): wound care, ongoing bowel care, catheterization, incontinence, skin parasite care, or limb circulation care. The Ministry further submitted that there is no information to establish that the requested items are necessary to avoid an imminent and substantial danger to health pursuant to subsection 2(1)(a)(ii)(C).

*Panel's decision*

This section sets out the eligibility criteria for disposable or reusable medical supplies and specifies that such supplies must be for one of the purposes set out in subsection 2(1)(a)(i): wound care, ongoing bowel care, catheterization, incontinence, skin parasite care, or limb circulation care. The evidence from the Appellant; her physician, social worker, and occupational therapist was that the items she requested are for post-surgical care and to promote independence following her hip replacement. No evidence was presented regarding limb circulation. The panel finds that the Ministry reasonably determined that the items requested by the Appellant are not for one of the legislated purposes and that the information does not establish that a further criterion (that the requested items are necessary to avoid an imminent and substantial danger to health under subsection 2(1)(a)(ii)(C)) was met.

Sections 2(1)(c), 2(2) and 2(2.1) of Schedule C*Ministry's position*

The Ministry argued that a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion do not meet the criteria as a therapy under these sections which set out that the Ministry may provide no more than 12 visits per calendar year at a rate of \$23 per visit for acupuncture, chiropractic, massage, naturopathy, podiatry, and physiotherapy.

*Panel's decision*

These sections govern visits to various types of therapists and there is no evidence that the Appellant requested any type of therapy. Her physician, social worker, and occupational therapist recommended a shoe horn and other items further to the Appellant's hip surgery, to promote her recovery and independence. There is no recommendation in the Medical Equipment Request and Justification form, physician's prescription, or letter from the social worker and occupational therapist for any of the therapy visits covered under these sections and the panel finds that the Ministry reasonably determined that the Appellant's request does not meet the criteria for therapies under EAPWDR sections 2(1)(c), 2(2), and 2(2.1) of Schedule C.

Sections 3 and 3.1 to 3.11 of Schedule C*Ministry's position*

The Ministry argued that a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion are not health supplements the Ministry is authorized to provide under these sections. The Ministry submitted that it is authorized to provide only the items listed in these sections and the requested items do not fall within the items listed (canes, crutches, walkers, wheelchairs, scooters and accessories; bathroom items including grab bars, a hospital bed, pressure relief mattress, floor or ceiling lift device, positive airway transfer device and accessories; orthoses and braces; and hearing aids). The Ministry further argued that the information provided does not establish that the other legislated criteria for these items have been met.

*Panel's decision*

These sections set out eligibility criteria for canes, crutches, walkers, wheelchairs, scooters and accessories; bathroom items including grab bars, a hospital bed, pressure relief mattress, floor or ceiling lift device, positive airway transfer device and accessories; orthoses and braces; and hearing aids. The Appellant did not request any of these items and the items she requested do not fall within the definition of any of the items in these sections. Regarding orthoses, while the requested shoe horn and molded stocking are for foot use, they do not fall under the legislated definition for orthoses in EAPWDR section 3.10(1) of Schedule C. The panel therefore finds that the Ministry reasonably determined that Appellant is not eligible for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion under these sections.

Sections 2.1, 2.2, 4, 4.1, and 5 - 9 of Schedule C, and EAPWDR section 67(3)*Ministry's position*

The Ministry argued that the requested shoe horn, reacher, stocking, and seating cushion are not one of the supplements in these sections. The eligible supplements include optical and dental procedures; and diet, nutrition, natal, and infant formula requirements. In addition, the Ministry submitted that the information provided does not establish that the other criteria for these health supplements have been met.

*Panel's decision*

These sections list health supplements that the Ministry may fund when the associated eligibility criteria for each supplement are met. The supplements listed include optical and dental procedures; and diet, nutrition, natal, and infant formula requirements. A blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion are clearly not any of these, and the panel finds that the Ministry reasonably determined that the Appellant's request is not authorized under these sections.

EAPWDR section 69*Ministry's position*

The Ministry argued that the Appellant does not require a remedy under section 69 (which applies to health supplements set out under sections 2(1) [general health supplements] and 3 [medical equipment and devices] of Schedule C) because she is already eligible to receive the health supplements set out under sections 2 and 3 of this Schedule. Section 69 is intended to provide a remedy for persons facing a direct and imminent life-threatening health need who are not otherwise eligible to receive these supplements. The Ministry argued that the requested items are not health supplements set out in sections 2 and 3 of Schedule C and the Appellant's request has not met all the requirements specified in sections 2(1)(a) and (f) and 3 - 11 of Schedule C.

*Panel's Decision*

In order to be eligible for a health supplement under section 69, the person must be facing a direct and imminent life-threatening health need and not be eligible for health supplements under other sections of the EAPWDR. As noted by the Ministry, the Appellant is eligible to receive the health supplements set out under sections 2 and 3 of Schedule C because she meets the basic eligibility requirement for health supplements as a recipient of disability assistance pursuant to EAPWDR section 62(1)(a). The panel notes that even though she is eligible for supplements under sections 2 and 3, her request must still meet the specific eligibility requirements for the item or supplement. If the items she requested are not listed in the legislation as eligible items, then the Ministry has no legal authority to provide a health supplement to cover the cost. The panel finds that the Ministry reasonably determined the specific items requested are not eligible under sections 2 and 3 of Schedule C and the Appellant is therefore not eligible for the shoe horn, reacher, stocking, or cushion under EAPWDR section 69.

*Conclusion*

The panel finds that the Ministry's denial of the Appellant's request for a health supplement for a blue max shoe horn, an e-z reacher deluxe, a molded stocking/stocking aid, and a seating cushion is reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the Appellant. The panel confirms the Ministry's reconsideration decision.