

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's (the Ministry's) reconsideration decision dated March 18, 2015, which denied funds for a knee immobilizer and crutches because the Appellant did not meet the eligibility requirements under Section 67 or Section 76 of the Employment and Assistance Regulation or section 62 of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

Section 67 and 76 and Schedule C subsection 3(1) of the Employment and Assistance Regulation (EAR) and section 62 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

The evidence before the Ministry at reconsideration included the following:

- A bill, dated August 26, 2014, for \$61.00 for crutches and a knee immobilizer.
- A letter, dated November 7, 2014, from the Ministry to the Appellant requesting further information in order to assess the claim for crutches and a knee immobilizer.
- A prescription from a medical practitioner, dated January 23, 2015, indicating that crutches and a knee immobilizer are to be worn for 6 hours per day for a knee fracture.
- A letter, dated January 27, 2015, from the Ministry to the Appellant stating that the Appellant does not meet the requirements to receive a health supplement as she is an employable person under the age of 65. The Ministry requests additional information in order to assess whether the Appellant's request falls under life threatening health needs legislation.

In the request for reconsideration, dated March 16, 2015, the Appellant writes that at the time of the injury, she was required to have a leg brace and crutches. She did not have enough money to pay for these items and now the bill has been sent to a collection agency. She states that she needs help to pay this bill.

In the notice of appeal, the Appellant states that she is trying to get her life together and to get off social assistance. She is looking for work and going to school and cannot afford the \$61.00 as this is money out of her pocket that can go towards her kids. She states that she is just making it by and needs help.

The ministry relied on its reconsideration decision, as summarized at the hearing.

The panel determined that the additional evidence was admissible under section 22(4) of the EAA as it corroborates the information provided by the appellant in her request for reconsideration and was in support of the records before the Ministry at reconsideration.

The panel finds that the Appellant does not dispute that she is an employable person under the age of 65 without designation as a person with disabilities or a person with multiple persistent barriers to employment. The panel also finds that the Appellant did not argue that the medical equipment was purchased for a life-threatening health need.

PART F – Reasons for Panel Decision

The issue is whether the Ministry's decision to deny funds for a knee immobilizer and crutches because the Appellant did not meet the eligibility requirements under Section 67 or Section 76 of the Employment and Assistance Regulation was reasonably supported by the evidence, or was a reasonable application of the legislation in the circumstances of the Appellant.

The legislation provides the following:

Employment and Assistance Regulation:

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 (B.C. Reg. 89/2005) (B.C. Reg. 67/2010)

(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)

(b) is a recipient of income assistance under section 8 [*people receiving special care*] of Schedule A, (B.C. Reg. 89/2005)...

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

76 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).

(B.C. Reg. 61/2010) (B.C. Reg. 197/2012)

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

(a) the supplements are provided to a family unit that is eligible under section 67 [*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.

Employment and Assistance for Persons with Disabilities Regulation:

General health supplements

62 (1) Subject to subsections (1.1) and (1.2), the minister may provide any health supplement set out in section 2 [*general*

health supplements] or 3 [*medical equipment and devices*] of Schedule C to or for a family unit if the health supplement is provided to or for a person in the family unit who is (B.C. Reg. 67/2010) (B.C. Reg. 114/2010)
(a) a recipient of disability assistance,...

The Ministry argues that the Appellant is an employable person under the age of 65 and therefore does not meet any of the eligibility requirements for a health supplement under section 67 of the EAR, specifically that a recipient of income assistance is only eligible for a general health supplement if any person in the family unit has persistent multiple barriers to employment (1)(a), or if they are a person receiving special care (1)(b) or are a person otherwise described in section 67. Additionally, the Ministry argues that the Appellant must be eligible under section 67 of the EAR in order to be assessed under Schedule C, section 3(1) for medical equipment and devices. The Ministry finally argues that although section 76 of the EAR allows for a medical equipment supplement when a person is otherwise not eligible if there is a life-threatening health need, there is no evidence that the Appellant's injuries were life threatening. The Ministry also determined that the Appellant is not eligible under section 62 of the EAPWDR as they are not a person with disabilities.

The Appellant argues in the request for reconsideration and in the notice of appeal that she cannot afford to pay the \$61.00 for the crutches and knee immobilizer because she is just getting by and this is money that can go towards her children.

The panel finds that the Ministry's determination that the Appellant was ineligible for a general health supplement under section 67 of the EAR was reasonably supported by the evidence. The Appellant states that she is looking for work and going to school, and she does not claim to have qualifications as a person with disabilities or a person with persistent multiple barriers to employment, nor does she claim that anyone in her family has this qualification. Also, the Ministry was reasonable to determine that the Appellant is not eligible under section 62 of the EAPWDR as neither she, nor any other family member, is designated as a person with disabilities.

The panel also finds that the Ministry's determination that the Appellant was ineligible for a health supplement under section 76 of the EAR was reasonably supported by the evidence. Section 76 requires that Appellant face a direct and imminent life-threatening need. Although there is a prescription from a medical practitioner demonstrating a need for a knee immobilizer and crutches, there is no evidence from that medical practitioner showing that the appellant's injury, a fractured knee, caused a direct and imminent life-threatening need.

The panel therefore finds that the Ministry's decision was reasonably supported by the evidence and confirms the reconsideration decision.