

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry) reconsideration decision dated July 18, 2014 which denied the appellant's request for a health supplement to cover the cost of a hospital bed and pressure relief mattress under Sections 3, 3.6 and 3.7 of Schedule C of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR). The ministry found that the appellant's request did not meet the legislative criteria in Schedule C of the EAPWDR because:

- There was insufficient information to establish that the medical equipment or device is the least expensive appropriate medical equipment or device [Section 3(1)(b)(iii)];
- There was no assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device [Section 3(2)(b)];
- There was insufficient information to establish that the hospital bed is medically essential to facilitate transfers of the appellant to and from bed or to adjust or maintain his positioning in bed [Section 3.6]; and,
- There was insufficient information to establish that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity [Section 3.7].

PART D – Relevant Legislation

Employment and Persons with Disabilities Regulation (EAPWDR), Section 62 and Schedule C, Sections 3, 3.6 and 3.7

PART E – Summary of Facts

Preliminary matters:

- The appeal hearing was originally scheduled for September 24, 2014 but was adjourned on September 17, 2014 at the written request of the appellant with the consent of the ministry and the approval of the chair of the Tribunal. The appellant's submission included the following bases for the adjournment request: The appellant has made an FOI [Freedom of Information] request to the ministry and cannot proceed with the hearing until after review of these records. The appellant requested that the hearing not be reset until after December 15, 2014.
- A rescheduled hearing was to be conducted on December 18, 2014 but was adjourned on December 16, 2014 at the written request of the appellant with the consent of the ministry and the approval of the Tribunal chair. The appellant stated that he had not been fully furnished with documents relating to the FOI request and requested an adjournment to January 22 to 24, 2015.
- On January 23, 2015, the Tribunal panel convened by telephone and heard the appellant's request for an adjournment, for reasons including the appellant's recent hospitalization and being bedridden and unable to pick up the FOI documents prepared by the ministry. The ministry did not attend the hearing. The hearing was adjourned by the panel.
- The hearing was re-scheduled for February 13, 2015 and the appellant made an adjournment request because he was still bedridden and unable to pick up the FOI documents from the ministry. The ministry did not consent to the adjournment request. The panel granted the adjournment advising that, if his medical condition does not improve, the appellant will request an adjournment from the Tribunal more than one business day before the date of the re-scheduled hearing.
- A re-scheduled hearing was to be conducted on March 30, 2015 but was adjourned on March 30, 2015 on the verbal request of the appellant, as he had a medical emergency and was taken by ambulance to hospital, with the consent of the ministry and the approval of the Tribunal chair.
- The hearing was re-scheduled for April 21, 2015 but was adjourned on April 15, 2015 at the written request of the appellant with the consent of the ministry and the approval of the chair of the Tribunal. The appellant's submission included that he is not available on Tuesdays because he gets meal delivery on that day "due to disability."

Substantive matters:

Documentary evidence before the ministry at reconsideration relevant to the issue under appeal included:

- 1) Quote from a health product company dated June 25, 2013 for a Dyna LAL 48 X80 mattress, alternating pressure and low air loss (1,000 lbs. weight capacity and 2 covers included), for \$7,950.60 and a Rotec VariTech [bed] (1,000 lbs. weight capacity, 37" head and footboards, and rotating ½ rails) for \$7,020.72, in the total amount of \$14,971.32;
- 2) Medical Equipment Request and Justification ("MERJ") signed by the appellant on June 28, 2013 with a description of the appellant's medical condition by the medical practitioner as "morbid obesity, chronic leg pain NYD [not yet determined]." The medical practitioner recommended a Rotec hospital bed with a low air loss mattress as further specified by an Occupational Therapist (OT) as "Rotec VariTech Hospital Bed and Dyna LAL Low Air Loss surface," which are required to meet the appellant's needs. The OT certified that she has assessed the medical needs of the appellant and the recommended medical equipment will satisfy his medical needs;

- 3) Assessment Report dated July 9, 2013 (“the original assessment”) by the OT requesting funding for a bariatric hospital bed and a low air loss mattress. The OT wrote that:
- The appellant has medical diagnoses which include morbid obesity and the appellant reports that his weight varies between 470 and 500 lbs., his weight is increasing again and he states that he weighs “500 lbs at least” but he has not been weighed for a while.
 - He has osteoarthritis in both knees and he reports chronic left leg pain NYD, which wakes him up with painful cramps, leg weakness, obsessive-compulsive disorder, anxiety, panic attacks, and schizophrenia with auditory hallucinations.
 - The appellant is independent with all of the IADLs [instrumental activities of daily living] and ADLs [activities of daily living].
 - The appellant states he is unable to walk due to weakness and obesity and he is dependent on a power wheelchair for all mobility.
 - The appellant’s transfers occur with a combination of pivot transfers and sliding. To get into bed, since his wheelchair does not fit through the bedroom door, he transfers onto a bariatric tub transfer bench, slides across, and then transfers onto bed.
 - Regarding skin integrity, the appellant reports normal sensation and no prior history of skin issues. During the April 2013 visit, the appellant reported an “on and off” skin issue since September 2012 in the posterior left upper thigh area. On June 25, 2013, the appellant reported that he had gone to emergency because of pain from this sore. He reported that the staff saw no skin breakdown but that it could occur soon. The appellant reported that he is having his general practitioner refer him to a seating clinic.
 - The OT had difficulty palpating the area of skin breakdown due to the appellant’s obesity. The appellant stated that he is uncomfortable with a female caregiver due to issues in his personal past history. It is unclear what the cause of the skin breakdown is, but possibly moisture/ shearing and inability to fully offload the area due to excessive soft tissue.
 - The appellant spends 12 to 18 hours per day in his power wheelchair. He is offloading as able, by tilting his wheelchair and when he is sleeping by side lying mostly. The appellant reports that skin breakdown may also be related to some bowel soiling, possible inability to clean perineal area, although the appellant is not incontinent.
 - The appellant reports that he has severe leg cramps especially at night in his left leg. They wake him up at night approximately 3 times a week. He needs to take pain medications to return to sleep or massage his leg, which is difficult for him to reach.
 - The appellant was very adamant that these are the 2 pieces of equipment he would like to request. He did not wish to entertain other options as he did his own research.
 - Regarding the Rotec VariTech bariatric hospital bed, the appellant reports that while he is able to perform independent bed mobility, it is very difficult and effortful due to his obesity. He finds that the head elevation feature helps with his breathing and that the foot elevation helps with preventing leg cramps. He requests this particular type of bed because of its weight capacity (1,000 lbs.) The appellant states that Invacare beds were a “service nightmare.” The Rotec Multi-Tech bed was used by the appellant for 2 years in the past and it worked well but was too small. His hip width is 27” in sitting.
 - Regarding the DynaLAL low air loss mattress, the appellant is requesting the 48” width mattress and alternating pressure and low air loss for issues with sweating. The appellant stated that he tried this mattress in a medical supply store in 48” width and he liked that it felt cool and he could roll easily.
 - The appellant is concerned about the pain from the area of skin breakdown but was

reluctant to have the OT view it, stating issues with females. She offered to have a male colleague view the skin breakdown but the appellant did not wish to accommodate another visit. He feels this mattress would be beneficial for his skin issues, sweating, and for bed mobility issues.

- Regarding his current equipment, the appellant has a queen size bed that he states is broken. The OT observed that the metal castor is intact, although one of the plastic caster covers has cracked. The bed sags in the center although it is fairly new, i.e. approximately 1 year old. He has a standard spring mattress and box spring;
- 4) Prescription dated September 25, 2013 in which the appellant's general practitioner wrote: "patient requires hospital bed for medical reasons";
 - 5) Copies of emails internal to the ministry dated May 13, 2014 stating that the appellant wants a decision on the information that is provided, that he is not getting a new OT and cannot afford to pay for the assessment. Information was requested from the appellant's previous OT and the ministry cannot make a decision without it. The appellant did hire a new OT but she wanted money for the assessment and the appellant does not have any money;
 - 6) Ministry Medical Equipment Request Tracking Sheet covering the period October 1, 2013 through May 28, 2014;
 - 7) Letter dated May 28, 2014 from the ministry to the appellant regarding the requested mattress and hospital bed and stating in part that the ministry will not be taking any further action and will be cancelling the request. The reasons for the cancellation include that there is no longer an OT involved with the appellant who can provide the required information. The required information, which is outstanding, includes confirmation that the requested equipment is the least expensive and most appropriate to meet the client's needs.
 - 8) Letter dated July 4, 2014 from the appellant to the ministry in which he enclosed his reconsideration request package, including Appendix A, and requested that all further correspondence be directed to his office address rather than his home address;
 - 9) Copy of email dated July 5, 2014 from the appellant to the ministry attaching his Request for Reconsideration and requesting an accommodation under the B.C. Human Rights Code due to physical disability and that the ministry accept his email as proper service to the ministry; and,
 - 10) Request for Reconsideration dated July 4, 2014 with attached Appendix A, in which the appellant wrote:
 - Funding for the requested hospital bed and mattress is a matter of basic mobility and medical necessity, as outline in the OT's letter dated July 9, 2013.
 - If this bed is not provided, the appellant will be in constant chronic pain and have painful leg cramps without the elevating leg part of the bed.
 - The appellant will continue to have problems with breathing due to the fact that his head is not elevated.
 - There was a new OT who took charge of the appellant's file on December 10, 2013 and worked with the appellant until roughly April 30, 2014. This OT completed a report in approximately February 2014 ("the new assessment") with the information that the ministry is requesting but the OT requires payment of the outstanding balance of \$75.
 - The equipment requested in the new assessment is the least expensive and the most appropriate to meet the appellant's needs.
 - The report by the new OT includes information about the appellant's weight.
 - The report by the new OT covers equipment trials.
 - The report by the new OT covers skin integrity issues.

Additional Information

In his Notice of Appeal dated August 5, 2014, the appellant expressed his disagreement with the ministry's reconsideration decision.

At the hearing, the appellant stated:

- Since the time of his original request for the bed and mattress, his health has worsened and he has additional health conditions that may make the equipment more necessary. His breathing problems have become worse and he now needs 24-hour oxygen use. He needs his head elevated and he has tried pillows but they are not alleviating his problems.
- The OT who completed the new assessment stated that she will turn over her report to the ministry but she will not release a copy to the appellant, even though he paid for it, or to the panel. The new assessment is very necessary in order for the panel to make a decision.
- This OT did a complete assessment of his medical needs and the equipment around February 2014 and completed a report around April 2014.
- The new assessment answers many of the questions raised by the ministry, such as his weight, information about his ability to get in and out of bed, and measurements of equipment.
- The new assessment recommends a different mattress that is less expensive than the one recommended in the original assessment, but recommends the same hospital bed. The original assessment recommended a hospital bed quoted at \$7,020.72 and a mattress for \$7,950.60, for a total of \$14,971.32.
- A medical supply company's more recent quote for the same bed, dated March 27, 2015, after the discounts, is for \$8,187.30. For the mattress recommended in the original assessment, the recent quote is \$8,518.50, for an updated total of \$16,705.80.
- For the "Blake" mattress recommended in the new assessment, the quote is for \$6,876.00 and the new total for the original bed and the new mattress is \$15,063.30.
- He is no longer requesting the mattress recommended in the original assessment since the new assessment recommended another, cheaper, alternative that would meet his needs.
- On the other hand, the new assessment reviewed three different bariatric beds and found that the one originally recommended was the least expensive option.
- He moved to B.C. from another province and has been trying to get reports from his previous doctors since December 2014. He has breathing difficulties and leg cramps that are previously documented. He was eligible for this equipment in his previous province.
- He currently has a regular bed and mattress and it is difficult to transfer, to get up out of bed or down onto the bed, because of the strain in breathing and leg cramps.
- He wakes up almost every other night with pain in his legs, particularly his left leg. He has tried elevating his leg with a pillow but that does not seem to work.
- He relies on his power wheelchair that has some elevating capability.
- Although the ministry stated that there is no longer an OT involved, there was an OT who completed the new assessment and there is more information available. All of the contact information for the new OT was given to the ministry but the ministry did not follow up.
- The OT who prepared the original assessment refused to attend the hearing to answer questions regarding her report and stated that her file is closed.
- An emergency doctor examined him for skin breakdown and did not find any pressure sores and no skin breakage but he said that skin breakdown would eventually occur if the appellant's sleep system was not changed.
- The ministry refused to accept a copy of the new assessment report directly from the new OT because the appellant's request was under appeal.

- The pain in his leg is bad and his breathing has become more problematic and this is no way to live life as a young man. The hospital bed is medically needed.

The ministry relied on its reconsideration decision. At the hearing, the ministry clarified that:

- In response to a question from the appellant, she did not have any involvement, either directly or indirectly, in making the reconsideration decision under appeal.
- There must be some miscommunication between the appellant and the ministry because new information can be submitted on the appeal and the appellant was entitled to submit the new assessment to the Tribunal for consideration by the panel. Given the appeal, it was out of the ministry's hands to accept new information for the purposes of making another decision on the request as the ministry had already made its reconsideration decision.
- If the appellant's medical conditions have worsened, this may affect his needs and he is permitted to make another request for equipment based on his changed circumstances. Any new request needs to be supported by the information required to meet the legislative criteria.
- The ministry did not try to contact the original OT because the ministry only does so where something in the report is understated or needs clarification. The original assessment stated that the appellant was adamant that the requested bed and mattress are the pieces of equipment that he wanted funding for and he did not want to consider other options.
- The ministry contacted the new OT just prior to the scheduled March 30, 2015 hearing date and the OT told the ministry that she offered the appellant her report after she completed it. The appellant told her that he did not need the report at that time.
- The OT told the ministry that, close to the date of the tribunal hearing, the appellant requested a copy of the report but the OT refused to release it because she felt it needed to be updated. She was aware that the appellant had been trying to lose weight and, therefore, the basis on which her recommendations had been made may have changed. She was not willing to stand behind the report because it was so long after she had conducted the assessment and it might no longer be accurate.
- The new OT told the ministry that the bed requested was "beyond the need" of the appellant or had more "bells and whistles" than the appellant really needed. The OT stated that there is not an urgent medical need for the bed, but the appellant would be more comfortable with this bed primarily because of its size. The OT said that an extensive assessment had been conducted but it was based on old information and her report needs to be updated and revised.
- The new OT told the ministry she had been unable to check for skin integrity issues because of the appellant's discomfort, for very valid reasons and, as far as she knew, his general practitioner had also not checked the appellant for this issue.

Admissibility of Additional Information

Neither party raised an objection to the admissibility of the oral testimony, which consisted primarily of additional information regarding the appellant's need for the requested bed and mattress both at the time of the reconsideration and currently. The panel finds that the additional information substantiates the information in the reconsideration record which included the reasons for needing the requested bed and mattress. The panel therefore admits the additional information as being in support of the information and records that were before the ministry at the time of reconsideration, in accordance with s. 22(4)(b) of the *Employment and Assistance Act*. The panel did not admit the information regarding the cost of the "Blake" mattress that had not been previously requested by the appellant, as information regarding that style of mattress was not before the ministry at the time of the reconsideration.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's reconsideration decision, which denied the appellant's request for a health supplement to cover the cost of a hospital bed and a pressure relief mattress under Section Schedule C of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), is reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Pursuant to Section 62 of the EAPWDR, the applicant must be a recipient of disability assistance, or be a dependant of a person in receipt of disability assistance 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 is receiving disability assistance.

At issue is whether the appellant's request for a hospital bed and a pressure relief mattress meets the requirements under Schedule C of the EAPWDR.

Section 3 provides in part:

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 a respiratory therapist, occupational therapist or physical therapist confirming the medical need for the medical equipment or device. ...

Section 3.6 of Schedule C provides:

Medical equipment and devices — hospital bed

- 3.6** (1) Subject to subsection (3) of this section, 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 transfers of a person to and from bed or to adjust or maintain a person's positioning in bed:
- (a) a hospital bed;
 - (b) an upgraded component of a hospital bed;
 - (c) an accessory attached to a hospital bed;
 - (d) a positioning item on a hospital bed.

- (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) The following items are not health supplements for the purposes of section 3 of this Schedule:
- (a) an automatic turning bed;
 - (b) a containment type bed.

Section 3.7 of Schedule C provides:

Medical equipment and devices — pressure relief mattresses

- 3.7 (1) A pressure relief mattress is a health supplement for the purposes of section 3 of this Schedule if the minister is satisfied that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity.
- (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.

Ministry's position

The ministry's position is that the appellant is eligible to receive health supplements under Section 62 of the EAPWDR, but his request for a hospital bed and pressure relief mattress does not meet all of the applicable criteria of Sections 3, 3.6 and 3.7 of Schedule C of the EAPWDR. In particular, the ministry argued that the requirement in Section 3(1)(b)(iii) has not been met as the ministry is not satisfied that the requested hospital bed and mattress is the least expensive 'appropriate' medical equipment or device as the original OT reported that the appellant would not trial any other hospital beds or mattresses, having done his own research. The ministry argued at the hearing that the new OT stated that the hospital bed requested has more features than the appellant requires for his medical conditions but that it is more comfortable for him. The ministry argued that the requirement in Section 3(2)(b) of Schedule C had not been met because the available report from an OT does not confirm that the appellant has a medical need for the requested hospital bed and mattress. At the hearing, the ministry argued that the original OT wrote in her report that the appellant was "very adamant" that he wanted to request only these pieces of equipment and this implies that it was not the OT's opinion that the appellant has a medical need for the equipment.

The ministry further argued that the requirements in Section 3.6 have not been met as there is no information to establish that the requested hospital bed is medically essential to facilitate transfers of the appellant to and from bed or to adjust or maintain his positioning in bed. The ministry noted that the OT reported in the original assessment that the appellant is independent with his activities of daily living. The ministry argued that the requirements in Section 3.7 of Schedule C have also not been met because there was insufficient information available to show that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity. The ministry argued that both of the OT's reported that further information was not received from the appellant's general practitioner and they were unable to view the skin breakdown as a result of the appellant's discomfort. The ministry argued that the appellant reported on April 13, 2013 that the staff at the hospital saw no skin breakdown and there was no further information provided from a medical professional regarding skin breakdown.

Appellant's position

The appellant's position is that the requested hospital bed meets the legislative requirements and that

he is no longer requesting the mattress recommended in the original assessment but he still requires the hospital bed. The appellant argued that there is a medical need for the requested hospital bed, as outlined in the OT's letter dated July 9, 2013 because, if this bed is not provided, the appellant will be in constant chronic pain and have painful leg cramps without the elevating part of the bed. The appellant argued that his breathing problems have worsened since the original assessment, that he now requires oxygen 24 hours per day, and he will continue to have problems with breathing due to the fact that his head is not elevated when sleeping. The appellant argued that he has tried to elevate both his head and his legs with pillows but this has not worked. The appellant argued that there was a new OT who took charge of his file at the end of 2013 and this OT prepared a report based on a new assessment in approximately February 2014 with the information that the ministry needs. The appellant argued that the new OT confirmed in her assessment that the equipment specified in her report is the least expensive and the most appropriate to meet the appellant's needs. The appellant argued that the report by the new OT includes information about the appellant's weight and covers equipment trials and skin integrity issues.

Panel decision

Least Expensive Appropriate Medical Equipment or Device

The ministry acknowledged that the appellant is eligible to receive health supplements under Section 62 of the EAPWDR, but argued that his request does not meet all of the applicable criteria in Sections 3, 3.6 and 3.7 of Schedule C of the EAPWDR. Section 3(1)(b)(iii) of Schedule C requires that the ministry be satisfied that the requested hospital bed and mattress is the least expensive 'appropriate' medical equipment or device; this necessitates an assessment of a variety of types of sleep systems in order to specify the equipment features that might address the appellant's particular restrictions and provides for the most cost effective option to meet his needs. Regarding the appellant's needs, the medical practitioner identified the appellant's medical conditions in the MERJ as "morbid obesity and chronic leg pain NYD" and, in the original assessment, the OT reported that the appellant has osteoarthritis in both knees and he stated that his weight varies between 470 and 500 lbs. Further, his chronic left leg pain NYD wakes him up with painful cramps and leg weakness. While the appellant stated at the hearing that his breathing problems have become worse and he now requires 24-hour oxygen use and needs to have his head elevated while sleeping, there was no supporting medical information provided regarding the nature or extent of the appellant's breathing difficulties. The appellant stated at the hearing that he has been attempting for some time to obtain his medical records from another province, which documents his medical history, including his breathing issues, but he had not yet been successful.

The OT wrote in the original assessment that, according to the appellant, he is able to perform independent bed mobility, but it is very difficult and effortful due to his obesity. The original OT reported that the appellant finds that the head elevation feature of the requested hospital bed helps with his breathing and that the foot elevation helps with preventing leg cramps. He requested this particular type of bed because of its weight capacity of 1,000 lbs. The OT wrote that, according to the appellant, the "Invacare beds" were a "service nightmare," but no further information was available regarding the cost of these beds or the maintenance required. The appellant stated at the hearing that the new OT reviewed three different bariatric beds when completing her assessment and the one she recommended was the least expensive option. As the appellant was not able to get a copy of the report of the new assessment from the OT, there were no further details provided by an OT regarding the other beds referred to by the appellant. The ministry also stated at the hearing that the new OT had said that the hospital bed requested had more "bells and whistles" than the appellant really needed.

The original OT wrote that the appellant currently has a standard queen size bed which he stated is "broken" and she observed that the metal castor is intact, although one of the plastic caster covers has cracked, and the bed sags in the center although it is fairly new, i.e. approximately 1 year old. The appellant stated that he has tried to elevate both his head and his legs with pillows but this has not worked. There was no information provided regarding possible improvements to the appellant's existing bed and mattress to address elevation of his legs or head and the relative cost of these options.

The original OT wrote that the appellant requested the 48" width DynaLAL alternating pressure and low air loss mattress for issues with sweating. Although the OT wrote that the appellant tried this mattress in a medical supply store in 48" width and he liked that it felt cool and he could roll easily, there was no comparative information in the OT's assessment regarding the ability of this mattress to meet the appellant's particular needs as compared to other types of mattresses. The original OT reported that the appellant would not trial any other hospital beds or mattresses as he had already completed his own research. Given the absence of any detailed information regarding possible equipment options and relative costs, the panel finds that the ministry reasonably concluded that the requested hospital bed and pressure relief mattress have not been shown to be the least expensive appropriate medical equipment or device, pursuant to Section 3 (1)(b) of Schedule C of the EAPWDR.

Medical Need

Section 3(2)(b) of Schedule C requires that an assessment by an occupational therapist or physical therapist confirms the medical need for the medical equipment or device and the ministry argued that the original assessment by the OT does not confirm that the appellant has a medical need for the requested hospital bed and pressure relief mattress because the appellant had already decided on his own assessment that these were the pieces of equipment he needed. However, the MERJ dated June 28, 2013 also included a recommendation by the OT for a "Rotec VariTech hospital bed and Dyna LAL low air loss surface", which are required to meet the appellant's needs. The OT certified both that: (1) she had assessed the medical needs of the appellant and, (2) the recommended medical equipment will satisfy his medical needs. The panel finds that while the OT may have qualified her report dated July 9, 2013 by indicating that the appellant was adamant about getting specific equipment based on his own assessment of his need, on the same date she certified in the MERJ that she assessed the appellant's medical needs and that the recommended medical equipment will satisfy his needs. Therefore, the panel finds that the ministry's conclusion that there is no assessment by an OT confirming the medical need for the hospital bed and pressure relief mattress was not reasonable.

Hospital Bed

Section 3.6 of Schedule C of the EAPWDR requires that the ministry be satisfied that the items are medically essential to facilitate transfers of a person to and from bed or to adjust or maintain a person's positioning in bed. The appellant argued that his health has worsened and he has additional health conditions which may make the hospital bed more necessary. He now requires 24-hour oxygen use and to have his head elevated. The appellant stated that he relies on his power wheelchair which has some elevating capability. However, he currently has a regular bed and mattress and it is difficult to transfer, to get up out of bed or down onto the bed, because of the strain in breathing and leg cramps. In the original assessment, the OT wrote that the appellant's transfers occur with a combination of pivot transfers and sliding. To get into bed, the appellant transfers onto a

bariatric tub transfer bench, slides across, and then transfers onto his bed. The original OT wrote that, according to the appellant, he is able to perform independent bed mobility but it is very difficult and effortful due to his obesity. The OT did not describe any difficulties with the appellant's current methods of transfer to and from his current bed and did not address the need for adjusting or maintaining his position in bed. The original OT reported that the appellant finds that the head elevation feature on the requested hospital bed helps with his breathing and that the foot elevation helps with preventing leg cramps. While the appellant argued that the new OT provides the information required in the new assessment, this report was not made available to the appellant and, therefore, was not provided on the appeal. In the absence of further information from an OT confirming the need for a hospital bed, the panel finds that the ministry's determination that there is not sufficient information to establish that the requested hospital bed is medically essential to facilitate transfers of the appellant to and from bed or to adjust or maintain his positioning in bed, was reasonable.

Pressure Relief Mattress

Section 3.7 of Schedule C requires that the minister is satisfied that a pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity. The appellant clarified at the hearing that he is no longer requesting a pressure relief mattress but, rather, the mattress as described in the new OT assessment that was not before the panel. At the hearing, the appellant acknowledged that an emergency doctor examined him for skin breakdown and did not find any pressure sores and no skin breakage but he said the doctor also told him that skin breakdown would eventually occur if the appellant's sleep system was not changed.

The OT reported in the original assessment that she did not receive further information from the appellant's general practitioner and she was unable to view skin breakdown. There was no evidence provided to show that the appellant has experienced skin breakdown, or pressure sores, now or in the past to support a determination that the pressure relief mattress is "medically essential" to prevent skin breakdown. Therefore, the panel finds that the ministry reasonably concluded that there is not sufficient evidence to establish that the requested pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity, as required by Section 3.7 of Schedule C of the EAPWDR.

Conclusion

In conclusion, the panel finds that the ministry reasonably determined that the appellant's request for a health supplement to cover the cost of a hospital bed and a pressure relief mattress does not meet all of the requirements in Sections 3, 3.6 and 3.7 of Schedule C of the EAPWDR and is a reasonable application of the applicable enactment in the appellant's circumstances. The panel therefore confirms the ministry's reconsideration decision.