

### PART C – Decision under Appeal

This is an appeal of the June 19, 2015 reconsideration decision of the Ministry of Social Development and Social Innovation (“Ministry”), in which the Ministry denied the Appellant’s request for a replacement scooter on the basis that the Appellant’s request did not meet the criteria set out in subsections 3(3)(a) or 3(3)(b) of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”), or the requirements set out in the Ministry policy, or the criteria set out in section 69 of the EAPWDR.

### PART D – Relevant Legislation

*Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) sections 62 and 69 and Schedule C – Health Supplements, sections 3 and 3.4.

## PART E – Summary of Facts

The Appellant was designated a person with disabilities who was transitioned to medical services only; she meets the eligibility criteria for general health supplements under section 62(1)(c) of the EAPWDR. The Ministry provided the Appellant a Cobra scooter in January 2003 (“2003 Cobra”), which she used until July 31, 2014, when she requested a new scooter as the previous one no longer worked. On August 1, 2014, the Ministry approved the Appellant’s request for a new scooter and the Appellant received a new Cobra scooter on August 19, 2014 (“2014 Cobra”). The Ministry paid for the Appellant’s 2014 Cobra on September 15, 2014. On April 20, 2015, the Appellant requested a new scooter to replace the 2014 Cobra. On May 7, 2015, the Ministry denied the Appellant’s request for a replacement of the 2014 Cobra and on June 19, 2015 the Ministry denied the Appellant’s request for reconsideration.

The information before the Ministry at reconsideration consisted of the following documents in chronological order:

- Ministry letter dated January 22, 2003 indicating that the Ministry approved the Appellant’s request for a Cobra scooter at a cost not to exceed \$3700;
- Copies of sales quotations from a scooter provider dated July 17, 2014 indicating mechanical problems with the Appellant’s 2003 Cobra scooter (purchased January 29, 2003);
- A sales quotation from a scooter provider dated July 21, 2014, indicating that the cost of a 2014 Cobra scooter is \$3,325.50;
- A Ministry Medical Equipment Request and Justification form (“Ministry Request Form”) signed by the Appellant July 31, 2014 with the note “see attached” in Section 2. A provincial health care provider’s “Request for Physician’s Prescription” form (“Physician Rx Form”) dated July 18, 2014, completed by the Appellant’s physician, indicating that the Appellant requires a scooter, and that the diagnosis is osteoarthritis, was attached. Section 3 of the Ministry Request Form was signed by an occupational therapist (“OT”) on July 25, 2014. A provincial health care provider’s “Justification of Mobility Equipment Request” form dated July 25, 2014 (“July 2014 Justification Request Form”) completed by the OT who signed the Ministry Request Form was also attached (described below);
- A Ministry purchase authorization (3 pages) dated August 1, 2014 indicating that the Ministry approved the Appellant’s request for the 2014 Cobra scooter at a cost of \$3,325.50;
- A copy of a Ministry Request Form signed by the Appellant on April 14, 2015. Section 2 “Medical or Nurse Practitioner Recommendation” is not signed, but notes, “please see attached dr. prescription.” Attached was a provincial health care provider’s Physician Rx Form dated April 15, 2015, completed by the Appellant’s physician, indicating that the Appellant requires a scooter, and that the diagnosis is “severe lumbar spondylosis.” An OT signed the Section 3 “Assessment” dated April 13, 2015 with the note, “please see attached letter of justification.” Attached was a provincial health care provider’s Justification of Mobility Equipment Request form dated April 13, 2015 (“April 2015 Justification Request Form”) completed by the OT who signed the Ministry Request Form (described below);
- A sales quotation from a scooter provider dated April 20, 2015 indicating the cost of a new Fortress scooter is \$3,710.40; and
- The Appellant’s request for reconsideration dated June 5, 2015 to which were attached the following documents:

- The Appellant's 1-page written submission on reconsideration;
- A provincial health care provider's Justification of Mobility Equipment Request form dated May 23, 2015 ("May 2015 Justification Request Form"), completed and signed by the same OT who completed the April 2015 Justification Request Form (described below);
- A 2-page copy of a letter dated November 20, 2014 from the Appellant's physician (described below); and
- A 2-page statement from the Appellant (further submissions) with three photographs of the Appellant sitting on the 2014 Cobra scooter attached to it.

In the July 2014 Justification Request Form, the OT noted that the Appellant's 2003 Cobra broke down, and that the scooter provider confirmed the 2003 Cobra could not be repaired. The OT wrote that the Appellant "had her scooter funded by [the Ministry] initially and is requesting an identical replacement." The OT wrote that the Appellant "needs to rent a scooter immediately for several months before the scooter prescription is approved" and asked the Ministry to "please approve the monthly rental of a Cobra ¾ Wheeled Scooter" in order for the Appellant to have "function, comfort, independence and safety" while the process of applying for purchase was completed. The Appellant and her advocate advised the panel at the hearing that the OT who prepared the July 2014 Justification Request Form retired and, at the time she completed the July 2014 Justification Request Form, the OT did not conduct an assessment of the Appellant's needs vis-à-vis a new scooter.

In his November 20, 2014 letter, the Appellant's physician indicated he was writing with respect to the Appellant's "need for an effective motorized scooter that fits her and operates well." The Appellant's physician said in the letter that the OT who completed the July 2014 Justification Request Form "looked up the file on record there and reordered the same scooter which [the Appellant] had for 10 years before" and advised that it would take a "minimum of 3 months for the order to be processed." The Appellant's physician notes that the Appellant "in an attempt to speed things up" contacted a friend at her MLA's office "and the approval for the purchase of the new scooter came through in less than a week." The Appellant's physician notes that when the new, 2014 Cobra scooter was delivered, it did not fit the Appellant "at all" and he notes that no one suggested to the Appellant that "she be reassessed or re-measured before the order [for the 2014 Cobra] was put in." The Appellant's physician notes that the scooter provider has tried its best "to make adjustments to the [2014 Cobra] scooter, but it has not made enough difference for [the Appellant]." The Appellant's physician wrote that the Appellant "needs to have a properly measured [scooter] supplied to her."

In the April 2015 Justification Request Form, an OT writes that the reason for the request is that the Appellant requires a larger scooter because the Appellant has an "inappropriate [2014 Cobra] scooter, which is far too small for her and does not meet her functional needs." The OT indicates that "following many trials of both scooters and power wheelchairs, the most appropriate scooter" for the Appellant would be a Fortress scooter, because its "adjustability provides appropriate and safe steering and seating" for the Appellant and it is "larger and more stable than her current device and she is able to be independent with all of her needs." In the May 2015 Justification Request Form, the OT repeats that the reason for the request is that the Appellant needs a larger scooter because the "previous scooter does not meet client functional/ safety requirements." The OT writes that the Appellant "was given an inappropriate" 2014 Cobra scooter "which is far too small for her and does not meet her functional or safety needs." The OT notes, "This scooter was supposed to be the exact same model as her previous scooter bought in 2003, but according to [the Appellant] the new model is made of lightweight plastic instead of metal which makes it less durable and sturdy; it has a far

smaller footrest space which causes her feet to fall forward off of the scooter; and its handles and tiller are changed in design which makes it not functional for her arm length discrepancy.” The OT repeats that the Fortress scooter would be a suitable choice to meet the Appellant’s needs.

Prior to the hearing, the Appellant provided the following additional documents:

- A 2-page letter dated July 10, 2015 from the Appellant’s physician;
- A 1-page letter dated July 14, 2015 from the scooter provider; and
- A 4-page document, “scooter replacement chronology” prepared by the Appellant and her advocate on July 20, 2015.

The Ministry had no objection to the admission of the Appellant’s additional documents. In the July 10, 2015 letter, the Appellant’s physician repeats the contents of his letter of November 20, 2014 (described above). The panel admits the July 10, 2015 physician’s letter as written testimony in support of the information and records before the Ministry when the decision under appeal was made, under section 22(4)(b) of the *Employment and Assistance Act*. In the July 14, 2015 letter from the scooter provider, the scooter provider indicates that it has worked with the Appellant and her OT to try to resolve the issues with the 2014 Cobra scooter, including modifying the seat rail and seat and adjusting the tiller and handles, but that “no further adjustments can be made to the scooter to accommodate what the client feels is needed.” This repeats information that was before the Ministry on reconsideration in the November 20, 2014 letter from the Appellant’s physician, and the panel admits the July 14, 2015 letter from the scooter provider as written testimony in support of the information and records before the Ministry when the decision under appeal was made, under section 22(4)(b) of the *Employment and Assistance Act*.

In the “scooter replacement chronology” document, the Appellant and her advocate set out in chronological order the steps taken by the Appellant from July 7, 2014, when she first contacted the scooter provider regarding repairs to her 2003 Cobra scooter, to the date the Appellant filed her Notice of Appeal. The document contains written submissions on appeal and is admissible as such under section 22(4)(b) of the *Employment and Assistance Act*.

In her testimony at the hearing, the Appellant and her advocate repeated much of the evidence set out in the documents described above. The Appellant and her advocate told the panel that when the Appellant requested a new scooter in 2014 to replace her 2003 Cobra scooter, she asked to have “the exact same scooter” as she’d had the 2003 Cobra scooter for several years and it met her needs. The Appellant said she did not know that the 2014 Cobra scooter was no longer the “exact same scooter” she had in 2003 – she said that the 2014 Cobra is lighter and smaller than the 2003 Cobra scooter and has issues which make it very difficult for her to use, particularly steering and turning. The Appellant said that the OT at the provincial health care provider did not do an assessment of her needs in July 2014 or at all when the OT completed the request for the 2014 Cobra scooter. The Appellant said that she has a good friend who works in her MLA’s office and that she contacted her friend in late July 2014 when she was told by the OT that it would take up to 3 months to complete the purchase of the new scooter to verify that it would take 3 months to get the new scooter.

The Appellant and her advocate said that the 2014 Cobra scooter was not appropriate for the Appellant’s needs and that the Appellant knew this as soon as she received the 2014 Cobra scooter. The Appellant said that she advised the scooter provider and the OT within a week of receiving the

2014 Cobra that the 2014 Cobra would not work properly for her, given her physical limitations, and that the scooter provider made several modifications to the 2014 Cobra scooter in August and September 2014. The Appellant said that she was in ill health from late September through mid-November 2014 and then in hospital for a 6 week period from mid-November to late December 2014 and during this time she did not use the 2014 Cobra scooter. The Appellant said she had very limited use of her 2014 Cobra scooter through January and February 2015, and in March 2015, a new provincial health care provider OT was assigned to her (this OT replaced the retired OT who had completed the July 2014 Justification Request Form). The Appellant said that in March 2015, her new OT and the scooter provider tried to make further modifications to the 2014 Cobra scooter, but by the end of March 2015, they agreed the 2014 Cobra scooter would not work for her. The Appellant said that her friend who works in the MLA's office took the photographs attached with her submissions on reconsideration in late March 2015. The Appellant said that she cannot turn the 2014 Cobra scooter properly, that her feet fall off the footrest and that she has run into objects and people while using the 2014 Cobra scooter and that it is not safe for her to use it. The Appellant said that in late March and early April 2015, she and her new OT tested different scooters and the OT did an assessment of her needs, reflected in the April 2015 Justification Request Form. The Appellant submitted a Medical Equipment Request form to the Ministry in April 2015. She had not contacted the Ministry before this point about the 2014 Cobra scooter.

## PART F – Reasons for Panel Decision

The issue on this appeal is whether the Ministry's decision to deny the Appellant's request for a replacement scooter on the basis the request did not meet the criteria set out in subsections 3(3)(a) and 3(3)(b) of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR"), or the criteria set out in the Ministry's policy, or set out in section 69 of the EAPWDR, was reasonable based on the evidence or a reasonable application of the legislation in the appellant's circumstances.

### *Legislation*

The following are the relevant provisions of the legislation (the EAPWDR) applicable to the Appellant's request for replacement seatbelts for his wheelchair.

#### **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,
  - ...
  - (c) a person who was a recipient of disability assistance on the day he or she became 65 years of age
  - ...

#### **69. Health supplement for persons facing direct and imminent life threatening 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).

### **Schedule C – Health 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:

- (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.
- (3) Subject to section (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 3.11 of this Schedule, as applicable, for the purposes of this paragraph, has passed.
- (4) Subject to section (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 section (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 repair the requirements in this section and section 3.1 to 3.11 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 a medical device than to replace it.
- (6) The minister may not provide a replacement of medical equipment or a medical device under section (3) or repairs of medical equipment or a medical device under section (4) or (5) if the minister considers that the medical equipment or device was damaged through misuse.

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

- (1) In this section, “scooter” does not include a scooter with 2 wheels.
- (2) Subject to subsection (5) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if all of the requirements set out in subsection (3) of this section are met:
- (a) a scooter;
  - (b) an upgraded component of a scooter;
  - (c) an accessory attached to a scooter.
- (3) The following are the requirements in relation to an item referred to in subsection (2) of this section:
- (a) an assessment by an occupational therapist or a physical therapist has confirmed that it is unlikely that the person for whom the scooter has been prescribed will have a medical need for a wheelchair during the 5 years following the assessment;
  - (b) the total cost of the scooter and any accessories attached to the scooter does not exceed \$3500 or, if subsection (3.1) applies, \$4500;
  - (c) the minister is satisfied that the item is medically essential to achieve or maintain basic mobility.
- (3.1) The maximum amount of \$4500 under subsection (3)(b) applies if an assessment by an occupational therapist or a physical therapist has confirmed that the person for whom the scooter has been prescribed has a body weight that exceeds the weight capacity of a conventional scooter but can be accommodated by a bariatric scooter.
- (4) The period of time referred to in section 3(3)(b) of this Schedule with respect to replacement of an item described in subsection (2) of this section is 5 years after the minister provided the item being replaced.
- (5) A scooter intended primarily for recreational or sports use is not a health supplement for the purposes of section 3 of this Schedule.

The following sections of Schedule C of the EAPWDR are not relevant to the Appellant’s request for a replacement scooter: 3.1 – canes, crutches and walkers; 3.2 – wheelchairs; 3.3 – wheelchair seating systems; 3.5 – bathing and toileting aids; 3.6 – hospital bed; 3.7 – pressure relief mattresses; 3.8 – floor or ceiling lift; 3.9 – positive airway pressure devices; 3.10 – orthoses; 3.11 – hearing aids.

In the reconsideration decision, the Ministry noted its policy (published online) regarding replacement of medical equipment, which provides the following:

Replacement may be considered if all of the following are met:

- it is more economical to replace, rather than repair, the medical equipment;
- the medical equipment has not been damaged by misuse;
- the time period, if any, set out in the table below has passed.

Note: The replacement time period does not apply when an item is required due to changes in a person's medical condition or growth. [underlining by Ministry in reconsideration decision.]

Medical Equipment	Replacement Time Period
Scooters (conventional and bariatric)	5 years

### *Submissions*

The Appellant does not dispute the fact that the Ministry provided her the 2014 Cobra scooter in August 2014 to replace her old 2003 Cobra scooter. The Appellant says that although she asked for “the exact same” scooter to replace the 2003 Cobra scooter, the 2014 Cobra scooter is not “the exact same” as the 2003 model and she had no way of knowing that the company had changed the Cobra scooter such that it was no longer appropriate for her needs. The Appellant says the 2014 Cobra scooter has never functioned properly for her needs, and she points to the information supporting this provided by her physician in his November 2014 and July 2015 letters, and by the OT in the April 2015 and May 2015 Justification Request Forms, as well as the July 2015 letter from the scooter provider indicating it has made several modifications to the Appellant's 2014 Cobra scooter for her. She argues that she cannot use the 2014 Cobra and that because it is too light for her and she cannot steer it, she is concerned about falling off it and it is unsafe for her to use it.

The Appellant points to the fact that the OT who completed the request for the 2014 Cobra scooter did not do an assessment of her needs at the time of the request (July 2014). The appellant argues that if the OT had performed an assessment in July 2014, the 2014 Cobra scooter would not have been provided to her as it is too small and does not function for her. She also argues that if she had rented the 2014 Cobra scooter for three months while waiting for the purchase order to go through (as noted in the July 2014 Functional Request Form), she would have discovered that the 2014 Cobra scooter was not suitable and would have requested a different, more appropriate scooter for her. The Appellant admits that she did not contact the Ministry about the problems she was experiencing with the 2014 Cobra scooter until she submitted the April 14, 2015 Medical Equipment Request form, but says that she did not know she could or should contact the Ministry about the problems with the 2014 Cobra scooter (she thought it better to contact the OT and the scooter provider). The appellant does not dispute that there is no malfunction with the 2014 Cobra scooter, but emphasizes that it is unsuitable for her. The appellant argues that she is not seeking a “replacement” of the 2014 Cobra scooter, but that the 2014 Cobra scooter should never have been provided to her in the first place. Effectively, the Appellant is arguing that she should be able to return the 2014 Cobra scooter because it is not the “exact same” as the 2003 Cobra scooter as she requested in 2014 and the Ministry should provide her with a scooter that meets her needs (for example, the Fortress model scooter).

The Ministry was sympathetic to the Appellant's situation and does not dispute her evidence that the 2014 Cobra is not the same as the 2003 Cobra scooter model. However, the Ministry determined that

the Appellant's request is for a replacement scooter for the 2014 Cobra scooter the Ministry provided to her in August 2014. The Ministry says that the Appellant's request for a replacement of the 2014 Cobra scooter does not meet the criteria set out in subsection 3(3)(a) of Schedule C of the EAPWDR because there is no evidence that the 2014 Cobra scooter is damaged, worn out or not functioning and it cannot be determined that it would be more economical to replace rather than to repair the 2014 Cobra scooter. The Ministry also says that the Appellant's request for a replacement of the 2014 Cobra scooter does not meet the criterion set out in subsection 3(3)(b) of Schedule C of the EAPWDR, which requires that the applicable period of time that has to pass before the replacement request for scooters is 5 years (the applicable period of time before a replacement can take place as set out in s. 3.4(4) of Schedule C of the EAPWDR). The Ministry noted that the Ministry policy provides that replacement time period (in this case 5 years) does not apply when an item is required due to changes in a person's medical condition or growth. However, the Ministry determined that there was no evidence that changes to the Appellant's medical condition or growth have occurred since she received the 2014 Cobra scooter (in July/August 2014), and thus the Ministry determined its policy did not apply to the Appellant's situation.

The Ministry also determined that the Appellant was not eligible for a replacement for her 2014 Cobra scooter as a health supplement for a person facing a direct and imminent life-threatening health need for a new scooter, because the Appellant was otherwise eligible to receive health supplements under sections 2(1)(a) and (f) and 3 to 3.12 of Schedule C of the EAPWDR. The Ministry also noted that the information submitted with the Appellant's request for reconsideration did not establish that she faced a direct and imminent life-threatening health need for a replacement scooter. The Ministry noted further that the Appellant had not met provided evidence that she has no other resources to pay for or obtain the requested item, as required under subs. 3(1)(b)(ii) of Schedule C of the EAPWDR, as the 2014 Cobra scooter could be traded in on a replacement scooter.

### ***Panel Decision***

Under subsection 3(3) of Schedule C of the EAPWDR, the minister may provide as a health supplement a replacement of medical equipment previously provided by the minister that is damaged, worn out or not functioning if it is more economical to replace than to repair the medical equipment *and* the applicable time period (set out in section 3.4 of the Schedule) has passed.

The Appellant does not dispute that the 2014 Cobra scooter is not damaged or worn out (it could be used by someone else who does not have the Appellant's disabilities). She argues that the reason she requires a replacement of the 2014 Cobra scooter is because it is not functioning for her needs. However, the Appellant's evidence is not that the 2014 Cobra scooter is "damaged, worn out or not functioning." The panel finds that the Appellant has not established that the 2014 Cobra scooter is "damaged, worn out or not functioning" as required under subs. 3(3)(a) of Schedule C EAPWDR, and that the Ministry's denial of her request to replace the 2014 Cobra scooter was reasonable in this respect.

Subsection 3.4(4) of Schedule C provides that for scooters, the period of time with respect to replacement is 5 years after the minister provided the item being replaced. The Appellant does not dispute that she received the 2014 Cobra scooter in August 2014, less than one year before her request to the Ministry for a replacement of it. The panel finds that the Appellant has not met the requirement set out in subs. 3(3)(b) of Schedule C EAPWDR, which requires that the applicable time

period of 5 years must have passed before a replacement scooter can be provided, and that the Ministry's denial of the Appellant's request for a replacement of her 2014 Cobra scooter because the request was made less than one year after the Ministry provided her the 2014 Cobra scooter was reasonable.

As noted by the Ministry, Ministry policy allows for replacement of medical equipment before the time period set out in the applicable sections (in this case, 5 years as set out in subs. 3.4(4)) if there is evidence that the Appellant's request for a replacement of the 2014 Cobra scooter is required due to changes in her medical condition or growth. The Appellant argued that the reason the 2014 Cobra scooter was unsuitable for her was because it was not the "exact same" as the 2003 Cobra scooter model – she did not provide information that since she received the 2014 Cobra scooter and her April 2015 request for replacement she had experienced changes in her medical condition or growth that rendered the 2014 Cobra scooter unsuitable for her. The panel finds that the Ministry was reasonable in its determination that there was no information that the Appellant required a replacement of the 2014 Cobra scooter as a result of changes in her medical condition or growth since she received the 2014 Cobra scooter in August 2014.

Section 69 EAPWDR states the minister may provide any health supplement set out in sections 2(1)(a) and (f) and 3 of Schedule C of the EAPWDR if the health supplement is provided to a person who is otherwise not eligible for it and if the minister is satisfied that the person faces a direct and imminent life threatening need and there are no resources available to the family unit with which to meet that need. The Appellant does not dispute that she is otherwise eligible to receive health supplements under section 2(1)(a) and (f) and section 3 of Schedule C. She argues that the replacement of the 2014 Cobra scooter is necessary to avoid imminent danger to her physical health – she says that the 2014 Cobra scooter is too light and she cannot steer or turn it properly and that she is at risk of falling off the scooter and injuring herself. She also reported running into people and objects, which she said was not safe either. The panel finds reasonable the Ministry's determination that the Appellant does not qualify for a replacement of the 2014 Cobra scooter under s. 69, as she is otherwise eligible for health supplements under sections 2(1)(a) and (f) and 3 of Schedule C of the EAPWDR. The panel finds the Ministry's determination that the Appellant did not meet the requirement of having no resources is reasonable based on the evidence, in particular, the Ministry's finding that the Appellant could pursue trading in the 2014 Cobra scooter.

On the basis of the foregoing, the panel finds that the Ministry was reasonable in determining that the Appellant's request for a replacement of her 2014 Cobra scooter did not meet the legislative criteria set out in subsection 3 of Schedule C of the EAPWDR, the Ministry's policy, or in section 69 of the EAPWDR.

Therefore, the panel confirms the Ministry's reconsideration decision to deny the Appellant's request for the replacement of her 2014 Cobra scooter as the legislative requirements set out in the EAPWDR were not met.