



PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation's ("the ministry") June 3, 2015 reconsideration decision that under the Employment and Assistance for Persons with Disabilities Regulation section 66 and Schedule C section 6, the appellant no longer qualified for a diet supplement because his medical condition was resolved.

PART D – Relevant Legislation

EAPWDR Employment and Assistance for Persons with Disabilities Regulation, section 66 and Schedule C section 6

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- The appellant is a single person in receipt of Employment and Assistance for Persons with Disabilities benefits.

- March 16, 2015 physician note stating 'Treated Hepatitis C. Dietary request renewal'.

- March 23, 2015 physician note stating 'Awaiting Hep C results'.

- April 9, 2015 physician note stating 'Hep C Virus Ab. Reactive Hep C Ab. Report AA. Prior treatment for Hep C Liver Tests are normal. HCV resolved. Diet to be continued.'

- April 21, 2015 letter from the ministry advising the appellant he no longer meets the requirements to receive a diet supplement.

- Request for Reconsideration in which the appellant wrote his physician recommends that a high protein diet is to be continued, as his liver took a beating and needs to rebuild and heal.

Upon appeal the appellant stated his doctor requested that the appellant's high protein diet is to be continued, due to liver damage.

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PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision that under the Employment and Assistance for Persons with Disabilities Regulation section 66 and Schedule C section 6, the appellant no longer qualified for a diet supplement because his medical condition was resolved.

Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation

Diet supplement

66 (1) The minister may pay for a diet supplement in accordance with section 6 [diet supplements] of Schedule C for a recipient of disability 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 or a dependant of that person if the recipient or dependant requires

- (a) a special diet for a specific medical condition described in section 6 of Schedule C, or
- (b) a special diet described in section 6 of Schedule C.

(2) A person is not eligible for a supplement under subsection (1) unless the need for the special diet is confirmed in writing by

- (a) a medical practitioner,
 - (a.1) a nurse practitioner, or
- (b) a registrant of the College of Dietitians of British Columbia established under the [Health Professions Act](#).

(3) The minister may not provide a supplement under this section to or for a family unit for a person on account of whom the minister is providing a supplement under section 67 (1) or (3) [nutritional supplements].

[am. B.C. Regs. 288/2003; 202/2006, s. 2; 317/2008, s. 7; 64/2010, s. 3.]

Employment and Assistance for Persons with Disabilities Regulation Schedule C

Diet supplements

6 (1) The amount of a diet supplement that may be provided under section 66 [diet supplements] of this regulation is as follows:

- (a) \$10 for each calendar month for a person who requires a restricted sodium diet;
- (b) \$35 for each calendar month for a person who has diabetes;
- (c) \$30 for each calendar month for a person who requires kidney dialysis if the person is not eligible under the kidney dialysis service provided by the Ministry of Health Services;
- (d) \$40 for each calendar month for a person who requires a high protein diet;
- (e) \$40 for each calendar month for a person who requires a gluten-free diet;
- (f) \$40 for each calendar month for a person who has dysphagia;
- (g) \$50 for each calendar month for a person who has cystic fibrosis;
- (h) \$40 for each calendar month for which a person requires a ketogenic diet;
- (i) \$40 for each calendar month for which a person requires a low phenylalanine diet.

(2) A diet supplement under subsection (1) (d) may only be provided if the diet is confirmed by a medical practitioner or nurse practitioner as being necessary for one of the following medical conditions:

(a) cancer that requires nutritional support during

(i) radiation therapy,

(ii) chemotherapy,

(iii) surgical therapy, or

(iv) ongoing medical treatment;

(b) chronic inflammatory bowel disease;

(c) Crohn's disease;

(d) ulcerative colitis;

(e) HIV positive diagnosis;

(f) AIDS;

(g) chronic bacterial infection;

(h) tuberculosis;

(i) hyperthyroidism;

(j) osteoporosis;

(k) hepatitis B;

(l) hepatitis C.

(3) A person who is eligible for a supplement under subsection (1) (d) or (f) is also eligible for a \$30 payment towards the purchase of a blender.

(4) If a person has more than one of the medical conditions set out in subsection (1), the person may receive only the amount of the highest diet supplement for which he or she is eligible.

Appellant's Position

The appellant argues that his diet supplement should be continued as recommended by his doctor, because his liver was damaged by hepatitis C.

Ministry's Position

The ministry argues the legislation provides for a diet supplement for persons requiring a high protein diet only if it is necessary for certain medical conditions, including hepatitis C, but that as the appellant no longer has hepatitis C as a medical condition, he does not qualify for the diet supplement.

Panel's Decision

EAPWDR section 66(1) provides for payment of a diet supplement in accordance with Schedule C section 6, with written confirmation of the need by a medical practitioner. Schedule C section 6 (1)(d) provides \$40 for each calendar month for a person who requires a high protein diet, but subject to section 6(2) which states a diet supplement under subsection (1) (d) may only be provided if necessary for one of a number of medical conditions, including hepatitis C.

The appellant submitted written confirmation for the diet supplement from his physician, but the physician also reported the appellant's liver tests are now normal and the hepatitis C virus was resolved. The appellant no longer has a medical condition required by the applicable legislation to qualify for the diet supplement. The panel therefore finds the ministry's reconsideration decision was a reasonable application of the applicable enactment in the circumstances of the appellant, and



confirms the decision.