

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated March 16, 2018, which determined that the appellant was not eligible for repairs to a manual wheelchair as the eligibility requirements set out in the Employment and Assistance for Persons with Disabilities Regulation, section 62 and Schedule C section 3 and sections 3.1 to 3.12, were not met.

Specifically, the ministry determined that as the repairs are requested for medical equipment not provided by the ministry, in accordance with section 3(5)(a), the legislated criteria for a wheelchair must be met and the ministry was not satisfied that the manual wheelchair is medically essential to achieve or maintain basic mobility, which is a requirement of section 3.2(2).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 62, Schedule C sections 3 and 3.2.

PART E – SUMMARY OF FACTS

Evidence Before the Minister at Reconsideration

Information provided by the appellant (reason for request for reconsideration)

- The appellant would like to get the benefit to repair her motorized scooter and wheelchair. She did buy the wheelchair herself in 2007 when she was working. She is unemployed now and is asking for help to pay the cost of repairing the power wheelchair and the manual wheelchair as well.

Ministry records show:

- The appellant is a recipient of disability assistance.
- The appellant submitted a sales quotation, dated January 18, 2018 to the Health Assistance Branch for push wheel locks and labour in the amount of \$125.44 for her Quickie 2 manual wheelchair.
- The ministry sent the appellant a letter dated January 26, 2018, advising her that her request for Health Supplements (manual wheelchair repair – push wheel locks and labour) was denied.
- The appellant submitted a prescription note, dated March 2, 2018, from a doctor, which states, "...please help her for the cost of repairing motorised scooter/wheel chair. Also she is completely wheel chair dependent to move around in and out of the house."
- The ministry contacted the company that provided the sales quotation to confirm that the push wheel locks were for the appellant's manual wheelchair. The ministry noted that any repairs to a motorized scooter must be requested separately and will not be addressed in this reconsideration.

Additional Evidence

Appellant

With the Notice of Appeal, received March 26, 2018, the appellant included the following information: "I would like need help to get the benefit support to pay my both wheelchairs for repairing in the future. When I was working I did pay it by myslef, now I am unable to work at all. Please kindly help me to double check my case, that will be great help for my disability life..."

At the hearing the appellant stated that she requires a manual wheelchair in addition to a motorized wheelchair, as she uses her motorized wheelchair outside but also requires a manual wheelchair for inside because of small spaces.

The appellant also stated that she submitted information to the ministry, verifying that she requires both a motorized and manual wheelchair.

Ministry

At the hearing, the ministry verified that it is maintaining the motorized wheelchair, but does not have any information on file to support the requirment for both wheelchairs.

PART F – REASONS FOR PANEL DECISION

The issue is whether the ministry's decision, dated March 16, 2018, which determined that the appellant was not eligible for repairs to a manual wheelchair as all the eligibility requirements set out in the EAPWDR, Schedule C, section 3 and sections 3.1 to 3.12 were not met, is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

That is, was the ministry reasonable in concluding that the information provided did not establish that the manual wheelchair is medically essential to achieve or maintain basic mobility?

The legislation provides:

Employment and Assistance for Persons With Disabilities Regulation

General health supplements

62 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) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Schedule C Health Supplements

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 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 a 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.

Medical equipment and devices — wheelchairs

3.2 (1) In this section, "**wheelchair**" does not include a stroller.

(2) Subject to subsection (4) 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 achieve or maintain basic mobility:

- (a) a wheelchair;
- (b) an upgraded component of a wheelchair;
- (c) an accessory attached to a wheelchair.

(3) 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.

(4) A high-performance wheelchair for recreational or sports use is not a health supplement for the purposes of section 3 of this Schedule.

Ministry Position

The ministry argues that it reasonably determined that as the repairs requested, were for medical equipment not provided by the ministry, as per section 3(5)(a) of the EAPWDR the legislated criteria for a wheelchair must be met. The ministry also argues that the manual wheelchair is not medically essential to achieve or maintain basic mobility, as is required under section 3.2(2) of the EAPWDR.

Appellant Position

The appellant argues that she requires a manual wheelchair in addition to a motorized wheelchair, as she uses her motorized wheelchair outside but also requires a manual wheelchair for inside, small spaces. The appellant also argues that the prescription note from her doctor, dated March 2, 2018, verifies the requirement for both wheelchairs.

Panel Decision

Although the appellant wrote in her Notice of Appeal that she is appealing the reconsideration decision to receive benefit support for both of her wheelchairs, the panel finds that the ministry reconsideration decision relates only to repairs for her manual wheelchair. Therefore, this is the decision over which the panel has jurisdiction on this appeal.

The EAPWDR, Schedule C, subsection 3(1)(b) sets out the general requirements for health supplements that may be provided by the minister and subsection 3(2) states that, "the family unit must provide "...a prescription of a medical practitioner or nurse practitioner for the medical equipment or device."

The appellant submitted a prescription note from her doctor, dated March 2, 2018, to demonstrate her requirement for a manual wheelchair, and its repairs. The prescription note states, "... please help her for the cost of repairing motorised scooter/wheel chair. Also she is completely wheel chair dependent to move around in and out of the house." The panel finds that this note does not address the need for a manual wheelchair and therefore the ministry has reasonably concluded that it does not substantiate that the manual wheelchair is medically essential to achieve or maintain basic mobility as is required by the EAPWDR, Schedule C, section 3.2(2).

As the EAPWDR, Schedule C, section 3.2(2) was not met, the ministry was reasonable to determine that the appellant is not eligible for repairs to her manual wheelchair under subsection 3(5) which allows for the minister to provide, as a health supplement, repairs of medical equipment or a medical device that was not previously provided by the minister, only if the applicable requirements of sections 3.1 to 3.12, in this case 3.2, are met.

Although the panel acknowledges that the appellant is disabled and is in receipt of disability assistance, the panel finds that the appellant has not provided sufficient evidence to substantiate the requirement for a manual wheelchair and its repairs, as is required under the legislation.

Conclusion:

The panel finds that the ministry reasonably concluded that the appellant's request for repairs to her manual wheelchair has not met all of the criteria set out in the EAPWDR, Schedule C, sections 3 and 3.2. The panel therefore finds that the ministry's decision to deny the appellant's request for repairs to her manual wheelchair, was reasonably supported by the evidence. The panel confirms the ministry's reconsideration decision. The appellant is not successful with the appeal.