PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") reconsideration decision of April 5, 2018 (the "Reconsideration Decision"), which denied the appellant reimbursement of medical equipment purchased by the appellant's relative, because the appellant did not receive prior authorization for the purchase; pursuant to sections 3, of Schedule C & 62 and 69 of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR").

PART D – RELEVANT LEGISLATION

EAPWDR, *sections 62, 69*

EAPWDR, *Schedule C- section 3(2)*

PART E – SUMMARY OF FACTS

The information before the Ministry at the time of the Reconsideration Decision consisted of the following:

1. **November 7, 2017** - Letter written to physician by social worker regarding the appellant's need for a non-conventional glucose monitoring system. Request made to physician to fill out the Medical Equipment Request and Justification Form.
2. **November 8, 2017** - Medical Equipment Request and Justification Form. Signed by the appellant's physician, with a request for a non-conventional glucose monitoring system – "Freestyle Libre System".
3. **December 29, 2017** – Documents provided to Ministry:
   a) Letter written by appellant's relative, dated December 29, 2017 indicating that the non-conventional glucose monitoring system is not supplied by drug stores, and that it needs to be ordered online. The appellant's relative indicates that she did order the equipment and was hoping for reimbursement from the Ministry. She provides two invoices for the purchase of two systems each totalling $227.00 from [redacted] Specialty Rx – one purchased November 21, and the other December 13, 2017.
   b) FreeStyle Libre Webpage listing price of the glucose monitor at $227.00
   c) Email from Social Worker to appellant's relative on November 21, 2017 advising the relative to submit the forms to the ministry.
4. **February 21, 2018** – the ministry denied the request and provided that; the appellant does not meet the criteria under section 3(1)(b)(i) in that he had not received prior authorization for the purchase. The ministry also notes that the ministry could not be satisfied with the information provided by the social worker and physician that the appellant cannot use a conventional method to monitor his glucose, and therefore the request has been denied.
5. **March 20, 2018** – A Request for Reconsideration with the following documents;
   a) Personal Statement dated March 14, 2018 – which outlines that his fingers are very calloused, that he suffers from Type 1 diabetes, high blood pressure, high cholesterol, diabetic neuropathy and had had a stroke on July 4th, 2017. He states that he and his relative were not aware that they required pre-approval for the medical equipment and if he had waited for a response from the ministry, he would have likely been hospitalized again due to his unstable blood sugars.
   b) Questionnaire completed by physician and signed on March 16, 2018 indicating that he can technically use a conventional glucose monitoring system, however due to his labile sugars and frequent hypoglycemia leading to loss of consciousness that is potentially life threatening, it is unrealistic for him to do finger pricks twenty to thirty times per day.
   c) Info sheet dated October 2017, with a EGFR reading of 50.
   d) List of Doctors
   e) Blood testing reports dated July 5, 2017, January 24, 2018, February 9, 2018 indicating various blood measurements and a GFR measurement across each test indicting the presence of chronic kidney disease.
   f) Undated summary of medical issues.
   g) Email receipts by [redacted] Specialty Rx dated January 26, 2018 and March 12, 2018 both for a total of $191.44 each.

Additional Information

At the hearing, the appellant submitted a letter, undated and written by an acquaintance that supports the appellant's position that his ability to monitor his sugars has improved by using the non-conventional glucose monitoring system.

The Ministry did not object to the admissibility of the letter. The panel admits the contents of the letter as written evidence in support of information and records that were before the Ministry at the time of the Reconsideration Decision, pursuant to section 22(4) of the *Employment and Assistance Act*.

At the hearing, the ministry relied on the information contained in the reconsideration decision and did not introduce new information.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the Ministry of Social Development and Poverty Reduction (the "Ministry") reconsideration decision of April 5, 2018 (the "Reconsideration Decision"), which denied the appellant reimbursement of medical equipment purchased by the appellant's relative, because the appellant did not receive prior authorization for the purchase, pursuant to sections 3 of Schedule C & 62 and 69 of the *Employment and Assistance for Persons with Disabilities Regulation* ("EAPWDR").

Applicable Legislation

Section 62 of the EAPWDR authorizes the Ministry to provide 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.

Section 3 of Schedule C to the EAPWDR sets out the criteria generally for eligibility for health supplements and medical equipment:

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.

EAPWDR

Section 69 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) a person in the family unit is eligible to receive 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).

Panel Decision

The ministry's position is that the appellant is a recipient of disability assistance and is therefore eligible to receive health supplements provided under Section 62 and Schedule C of the EAPDWR Regulation. However, the ministry notes that the information provided does not meet the criteria set out in Schedule C, section 3(1)(b)(i) where the family unit must receive pre-authorization from the minister for any medical equipment or device requested.

The appellant, as stated in the notice of appeal and reconsideration request, stated that the non-conventional glucose monitoring system was medically essential to achieve stability of glucose levels. Further, the appellant submits that it was the Kidney care team that had said they would submit the request forms on the appellant's behalf, and that [they] did not know they required pre-authorization from the ministry before purchasing the device.

As set out in Section 3(1) of Schedule C of the EAPWDR; 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.

The panel finds that the evidence establishes that the appellant did not seek pre-authorization before purchasing the non-conventional glucose monitoring system, as was indicated through the receipt for purchase of the system by the appellant's relative - independent of the ministry. The panel finds that the ministry decision was a reasonable application of applicable enactment in the circumstances of the appellant.

Moreover, as set out in the legislation, Section 69 of the EAPWDR states that 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) a person in the family unit is eligible to receive 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).

In the reconsideration decision, the ministry notes that Section 69 applies to health supplements set out under Schedule C, sections 2(1)(a) to (f) and section 3 and is intended to provide remedy for persons who are facing an imminent life-threatening heath need who are otherwise not eligible to receive them. The ministry notes that due to the appellant being a recipient of disability assistance, he is eligible to receive health supplements under the EAPWD regulation, Schedule C and therefore does not require remedy under Section 69. The panel finds that the ministry decision was reasonable when it concluded that section 69, which still requires that the pre-authorization requirement of section 3(1) be met, does not apply in the appellant's circumstances because he is a recipient of disability assistance and therefore does not need to meet the additional requirement that there be a life-threatening need for the supplement.

The panel finds that the evidence establishes that the appellant did not receive prior-approval to purchase the equipment, and therefore the ministry was only reasonable to determine that the appellant did not meet the criteria set out in Schedule C, Section 3(1)(b)(i) of the EAPWDR which states that a pre-authorization from the minister is required before any medical equipment can be provided.

As such, the panel finds that the evidence establishes that the appellant's relative did purchase the medical device without having prior approval from the ministry. The EAPWDR; Schedule C, Section 3(1)(b)(i) requires that the applicant ensure that they receive the prior approval of the minister before being provided the medical equipment. The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision pursuant to section 24(1)(b) and 2(a) of the Employment and Assistance Act. The appellant is therefore, unsuccessful in his appeal.

PART G – ORDER
THE PANEL DECISION IS: (Check one) ☒ **UNANIMOUS** ☐ **BY MAJORITY**
THE PANEL ☒ **CONFIRMS THE MINISTRY DECISION** ☐ **RESCINDS THE MINISTRY DECISION** If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? ☐ Yes ☐ No
LEGISLATIVE AUTHORITY FOR THE DECISION: *Employment and Assistance Act* Section 24(1)(a) ☐ or Section 24(1)(b) ☒ and Section 24(2)(a) ☒ or Section 24(2)(b) ☐

PART H – SIGNATURES	
PRINT NAME Jennifer Armstrong	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/06/14

PRINT NAME Jeremy Sibley	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/06/14
PRINT NAME Rosalie Turcotte	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/06/14