

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Social Innovation (the “ministry”) reconsideration decision dated May 10, 2018, which denied the appellant’s request for a Monthly Nutritional Supplement (MNS) of nutritional items on the basis that the appellant did not meet the criteria set out in section 67(1.1)(c) and (d) and Schedule C, section 7(a) of the *Employment and Assistance for Persons With Disabilities Regulation* (“EAPWDR”).

In particular, the ministry found that the information provided did not demonstrate that the appellant’s medical practitioner had described how the specified items would alleviate a specific symptom set out in EAPWDR section 67(1.1)(b), as is required by EAPWDR section 67(1.1)(c), or that the failure to obtain the specified items would result in imminent danger to the appellant’s life as required by EAPWDR section 67(1.1)(d). In addition, the ministry determined that there was insufficient evidence to establish that the requested MNS were required as part of a caloric supplementation to a regular dietary intake as required by EAPWDR Schedule C section 7(a).

**PART D – RELEVANT LEGISLATION**

EAPWDR, section 67 and Schedule C section 7

## PART E – SUMMARY OF FACTS

The information before the ministry at the time of reconsideration included the following:

1. Cytogenetics Report dated December 31, 2003 indicating that the cytogenetic investigations of the appellant's cultured brain tumor showed the presence of an abnormal clone with the gain of chromosome 7, 10, 11 and 12. The Cytogenetics Report indicates that a gain of chromosome 7 and 12 has been associated with ependymomas.
2. Notes from the appellant's radiation oncologist at a hospital (the "Radiation Oncologist") dated October 25, 2000 to August 5, 2004 indicating the appellant's diagnosis of recurrent ependymoma in her spinal cord, recommendation for radiotherapy, and therapy completion diagnosis of recurrent ependymoma, spinal cord.
3. Letter from a neurosurgeon (the "Neurosurgeon") dated January 5, 2010 indicating that the appellant has substantial neurological disabilities, which interfere with her ability to effectively manage in advanced education settings and more generally in society. The Neurosurgeon indicates that the appellant's physical limitations include persistent weakness, which limits her ability to get around easily. The Neurosurgeon indicates that the appellant's deficits are permanent and are likely to worsen over time either because of re-growth of the tumor or expansion of her brainstem or cord cyst(s).
4. Radiology report pelvic ultrasound dated September 7, 2016 indicating suspicion for a polyp.
5. MRI cervical, thoracic, and lumbar spine dated July 15, 2017 indicating that the appellant has scoliosis of the thoracolumbar spine and an extensive cord syrinx extending from C2 through T9-10.
6. Note from the Physician dated August 24, 2017 (the "Prescription Note") stating "*high protein, osteoporosis, continuous ongoing issue*".
7. Pelvic ultrasound dated December 5, 2017 indicating that the appellant has a pelvic cyst arising from the right ovary.
8. Medical Imaging Report MR lumbar Spine and MR Pelvis dated 12/10/17 indicating that the appellant has a stone in her gallbladder.
9. Pelvic ultrasound and bladder ultrasound dated February 22, 2018 (the "2018 Ultrasound Report") indicating that there is a 1.1 cm cyst between the cortex and medulla in the mid left kidney but that both kidneys are otherwise unremarkable. The 2018 Ultrasound Report also indicates that the appellant's kidneys have normal sizes, shapes and positions.
10. Application for Monthly Nutritional Supplement signed by the appellant on February 23, 2018 (the "MNS Application") in which the appellant's general practitioner (the "Physician") indicates that the appellant has been diagnosed with a spinal cord injury, ependymoma (spine tumor-resected many times), osteoporosis (spine fracture and scoliosis) and pelvic mass. The Physician indicates that as a result of her severe medical conditions the appellant is being treated for a chronic, progressive deterioration of health, explaining that the appellant is under investigation with an MRI for pelvic mass, and by a cancer agency with radiation and chemo. The Physician indicates that the appellant displays symptoms of malnutrition, underweight status, significant weight loss, significant muscle mass loss, significant neurological degeneration, and significant deterioration of a vital organ. The Physician indicates that the appellant is 4'10" and weighs 100 lbs. The Physician indicates that the appellant requires vitamin and mineral supplementation as she is not adequately absorbing these elements.  
  
The Physician indicates that the appellant requires Ensure (2 cans per day), cranberry juice (for vitamins), and fibre powder-protein for constipation. The Physician indicates that the appellant's medical condition that results in the inability to absorb sufficient calories to satisfy daily requirements through a regular dietary intake are that the appellant is very weak and has a malabsorption condition demonstrated by losing weight and weakness. The Physician indicates that the nutritional items will alleviate one or more of the appellant's specified symptoms and provide caloric supplementation to the regular diet as food does not have all elements for the appellant's condition and the items will help her to improve her condition. In describing how the nutritional items will prevent imminent danger to the appellant's life, the Physician writes: "*No danger for applicant life, had fracture from OP, and muscular dystrophy from lack of Mg, Ca, Vit B.*"
11. Endovaginal ultrasound report dated March 6, 2018 indicating that the appellant has a large right adnexal complex mass of uncertain origin. The report recommends further evaluation with a gynaecology consult and

possibly a pelvic MRI.

12. Medical Imaging Report MR Pelvis dated April 3, 2018 indicating that the appellant has a 4.9 cm homogeneously appearing cyst abutting the anterior and superior aspect of the upper sacrum on the right, most suggestive of benign cysts with no aggressive features identified. A follow up MRI in 1 year was recommended.

13. Letter from a gynaecologist dated April 5, 2018 indicating that there was a phone follow up in which the appellant indicated that she feels her symptoms are worsening.

14. Request for Reconsideration dated April 26, 2018 in which the appellant states that she has severe and complicating medical conditions such as muscle mass loss, neurological deterioration, and compromise of vital organs from radiation therapy, which requires other/extra vitamins and minerals (ongoing) as well as ongoing caloric supplementation to relieve symptoms and prevent progressive deterioration of health. The appellant states that she also applies for the underweight status. She states that her BMI is inaccurate because of her pediatric spinal cord fusion, which, in combination with severe scoliosis causes artificial short stature. The appellant states that the radiation therapy she has required has affected all of the organs including her heart, lungs, brain, peritoneum/mesentery, bowel, bladder, spinal cord and canal, bones, soft tissue, and reproductive organs. The appellant states that her muscle weakness (sarcopenia) arises from paralysis sustained from spinal cord tumor excision, radiation therapy, and progressive atrophy of the spinal cord.

The appellant states that she has sacral metastases from spinal cord cancer in her peritoneum in between the bowel and the spinal cord compressing organs in the area. The appellant states that her overall health has been bad this year for what she feels was lack of nutrition and her medical reports show gallbladder stones, kidney cysts, and ovarian masses. The appellant states that she is seeking \$40 for vitamins and minerals and \$165 for nutritional items, and \$40 for high protein (protein powder) for osteoporosis.

15. Letter from the appellant's oncologist (the "Oncologist") dated April 26, 2018 (the "April 2018 Letter") indicating that the appellant has a history of ependymoma, diagnosed in 1998. She has had multiple spinal cord surgeries and fusions of her spine. The Oncologist states that the effects of extensive radiation therapy will result in worsening health over time. The Oncologist states that the appellant has osteoporosis, scoliosis, sarcopenia and is at risk for malnutrition, due to inability to properly absorb nutrients. The Oncologist states that the appellant requires long term, ongoing use of protein powders and Ensure to counteract the malabsorption of nutrients from food. The Oncologist recommends supplements of vitamins A, C, E and magnesium to mitigate the appellant's neurologic dysfunction. The Oncologist also indicates that the appellant requires calcium and vitamin D for osteoporosis.

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the *Employment and Assistance Act*.

#### **Additional information provided**

In her Notice of Appeal dated May 17, 2018 (NOA), the appellant states that her BMI is incorrect because she is crippled. The appellant states that in the RFR she explained how the Physician does not know her very well so she had appealed with the Oncologist April 2018 Letter, but that the ministry's denial is based mainly on the Physician's old, incomplete report while ignoring pertinent information from the Oncologist which indicates that the appellant has sarcopenia (progressive muscle mass loss), and significant deterioration to her heart, lungs, and kidneys from radiation therapy. The appellant also states that she has a brainstem cyst and presacral masses.

Prior to the hearing the appellant provided a letter dated June 5, 2018 setting out the reasons she disagrees with the ministry's reconsideration decision (the "Submission"). The appellant states that she has chronic progressive deterioration of vital organs, that her BMI is an inaccurate measure of her condition, and that her requested items are for an ongoing/continuous basis. The appellant states that the Physician's information satisfied that she had two of the legislated criteria being malnutrition and neurological deterioration as a direct result of chronic, progressive deterioration of health. The appellant states that information from the Radiation Oncologist spoke to her significant deterioration to vital organs, such as heart, lungs, vascular system and mediastinal structures. The appellant also states that medical documentation submitted from the past year also demonstrates that she currently has elevated cancer antigen blood markers, and that in the last year she has sustained gallbladder stones and kidney cysts.

With the Submission, the appellant also included a letter from the Oncologist dated June 5, 2018 (the "June 2018 Letter"), which states that the appellant has a history of ependymoma, diagnosed in 1998, multiple spinal cord surgeries and fusions of her spine. The Oncologist states that the appellant has late effects (long term health

problems and risks) related to previous therapy for a recurrent spinal cord ependymoma and has received extensive radiation therapy and carbogen inhalation therapy. The Oncologist states that the appellant has osteoporosis, scoliosis, and sarcopenia and is at risk for malnutrition, due to the inability to properly absorb nutrients.

The Oncologist states that the appellant has loss of muscle and mass and body fat and has inoperable pre-sacral masses, which may account for some extra weight but that she would satisfy the underweight status. The Oncologist states that the appellant has the progressive loss of skeletal muscle mass as a direct result of a chronic progressive deterioration of her health with significant deterioration to the brain, lungs, heart, kidneys, and liver.

The Oncologist states that the appellant requires extra caloric supplementation for the alleviation of her symptoms, for an ongoing and continuous basis, namely Ensure and protein powders to counteract the malabsorption of nutrients from food. The Oncologist states that protein powders are medically essential and prevent imminent danger to life. The Oncologist also states that the appellant requires fibre powder to prevent bowel obstruction and to aid in the absorption of sufficient calories required to sustain weight, alleviate muscle mass loss, prevent malnutrition, and prevent imminent danger to life. The Oncologist also states that cranberry extract supplements can assist in preventing chronic infection and deterioration to the kidney and prevent chronic bladder infections. The Oncologist states that urinary tract infections and constipation/bowel obstruction can cause fatal complications in patients with such a history of spinal cord injury and thoracic spinal radiation.

The Oncologist also states that the appellant requires vitamins to mitigate her neurological dysfunction.

Prior to the hearing the ministry submitted a letter dated June 20, 2018 stating that had it had the Oncologist June 2018 Letter at the time of rendering the reconsideration decision, the ministry may have found that the appellant's request had met the criteria for the MNS.

#### **Admissibility of New Information**

The panel has admitted the information in the NOA and the Submission regarding the appellant's BMI and medical conditions as it is information in support of the ministry at the time of reconsideration, in accordance with section 22(4) of the *Employment and Assistance Act*. The panel has also admitted the Oncologist June 2018 Letter into evidence as it provides more detail about the appellant's medical conditions and need for vitamins and nutritional supplementation and is in support of the information that was before the ministry at the time of reconsideration.

The panel accepts the information in the NOA and the Submission setting out why the appellant disagrees with the ministry's reconsideration decision as argument.

## **PART F – REASONS FOR PANEL DECISION**

### **Issue on Appeal**

The issue on this appeal is whether the ministry's decision to deny the appellant funding for the MNS of nutritional items on the basis that the appellant did not meet the criteria set out in section 67(1.1) (c) and (d) and Schedule C, section 7(a) of the EAPWDR was reasonable. In particular, was the reconsideration decision in which the ministry determined that the information provided did not demonstrate that the appellant's medical practitioner had described how the specified items would alleviate a specific symptom set out in EAPWDR section 67(1.1)(b), that the failure to obtain the specified items would result in imminent danger to the appellant's life, and that there was insufficient evidence to establish that the requested MNS were required as part of a caloric supplementation to a regular dietary intake was reasonable?

The relevant legislation is as follows:

### **EAPWDR - Nutritional Supplement**

67 (1) The minister may provide a nutritional supplement in accordance with section 7 [monthly nutritional supplement] of Schedule C to or for a person with disabilities in a family unit who receives disability assistance under

- (a) 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
- (b) section 8 [people receiving special care] of Schedule A, if the special care facility is an alcohol or drug treatment centre,  
if the minister is satisfied that
- (c) based on the information contained in the form required under subsection (1.1), the requirements set out in subsection (1.1) (a) to (d) are met in respect of the person with disabilities,
- (d) the person is not receiving a supplement under section 2 (3) [general health supplement] of Schedule C,
- (e) the person is not receiving a supplement under subsection (3) or section 66 [diet supplements],
- (f) the person complies with any requirement of the minister under subsection (2), and
- (g) the person's family unit does not have any resources available to pay the cost of or to obtain the items for which the supplement may be provided.

(1.1) In order for a person with disabilities to receive a nutritional supplement under this section, the minister must receive a request, in the form specified by the minister, completed by a medical practitioner or nurse practitioner, in which the practitioner has confirmed all of the following:

- (a) the person with disabilities to whom the request relates is being treated by the practitioner for a chronic, progressive deterioration of health on account of a severe medical condition;
- (b) as a direct result of the chronic, progressive deterioration of health, the person displays two or more of the following symptoms:
  - (i) malnutrition;
  - (ii) underweight status;
  - (iii) significant weight loss;
  - (iv) significant muscle mass loss;
  - (v) significant neurological degeneration;
  - (vi) significant deterioration of a vital organ;
  - (vii) moderate to severe immune suppression;
- (c) for the purpose of alleviating a symptom referred to in paragraph (b), the person requires one or more of the items set out in section 7 of Schedule C and specified in the request;
- (d) failure to obtain the items referred to in paragraph (c) will result in imminent danger to the person's life.

(B.C. Reg. 68/2010)

(2) In order to determine or confirm the need or continuing need of a person for whom a supplement is provided under subsection (1), the minister may at any time require that the person obtain an opinion from a medical practitioner or nurse practitioner other than the practitioner referred to in subsection (1) (c). (B.C. Reg. 68/2010)

### **EAPWDR Schedule C, Health Supplement - MNS**

**7** The amount of a nutritional supplement that may be provided under section 67 [*nutritional supplement*] of this regulation is the sum of the amounts for those of the following items specified as required in the request under section 67 (1) (c):

- (a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to \$165 each month; (B.C. Reg. 68/2010)
- (b) Repealed (B.C. Reg. 68/2010)
- (c) for vitamins and minerals, up to \$40 each month. (B.C. Reg. 68/2010)

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### Position of the Parties

The appellant's position is that the medical information provided, particularly that from the Physician, Radiation Oncologist, and the Oncologist demonstrates that she qualifies for the MNS of nutritional items. The appellant's position is that the medical information establishes that she has a need for Ensure, protein powders, fibre powder, and cranberry supplements and that the requested items are for an ongoing/continuous basis. The appellant argues that the ministry overlooked important information and ought to have found that the appellant met the underweight status as her BMI is not a correct measure of her weight. The appellant also argues that the ministry was unreasonable in not accepting that she met the criteria for significant muscle mass loss (sarcopenia) as the Oncologist April 2018 Letter and June 2018 Letter explains that the appellant has sarcopenia, the progressive loss of skeletal muscle mass as a direct result of a chronic progressive deterioration of her health.

The appellant argues that the requested items are medically essential and required to provide caloric supplementation to a regular diet to alleviate her symptoms. The appellant's position is that the information in the Oncologist June 2018 Letter establishes that failure to obtain the requested items will result in imminent danger to her life.

The ministry's position is that the information provided does not establish that the appellant requires the requested nutritional items as part of a caloric supplementation to a regular dietary intake for the purpose of alleviating a symptom referred to in EAPWDR section 67(1.1)(b) and that failure to obtain the requested items would result in imminent danger to the appellant's life. In particular the reconsideration decision states that while the Physician indicates that the appellant is very weak and has a malabsorption condition demonstrated by losing weight and weakness and that the requested items will help her to improve her condition, the Physician does not indicate that the requested items are needed for caloric supplementation and that the appellant's BMI is in the normal range. The ministry's position is that the Physician's statement that the appellant is "...*very weak, malabsorption condition demonstrated by losing weight and weakness*" does not establish an inability to absorb sufficient calories specifically.

The reconsideration decision also indicates that in the Oncologist April 2018 Letter, the Oncologist does not speak to a need for caloric supplementation. The reconsideration decision also states that while the Prescription Note indicates that the appellant states "*High Protein / Osteoporosis / Continuous ongoing issue*", a need for protein supplementation is not considered indicative of a need for caloric supplementation. The ministry also states that a need for cranberry juice for vitamins and protein for constipation is not considered indicative of a need for caloric supplementation.

The ministry's position is that as the Physician, in the MNS Application, states that there is no danger to the appellant's life, the appellant has not met the criteria of EAPWDR section 67(1.1)(d) as there is no medical

evidence indicating that failure to obtain the requested items will result in imminent danger to the appellant's health.

In its letter dated June 20, 2018 the ministry states that if it had the Oncologist June 2018 Letter at the time of reconsideration, it may have found the appellant met the legislative criteria.

#### Panel Decision

In the Submission the appellant includes her position on why she meets the criteria of section 67(1.1) (a) and (b) of the EAPWDR. In particular, she sets out how the information from the Physician and the Oncologist addresses how, as a direct result of the chronic, progressive deterioration of health, she displays two or more of the listed symptoms of malnutrition, underweight status, significant weight loss, significant muscle mass loss, significant neurological degeneration, significant deterioration of a vital organ or moderate to severe immune suppression. However, the panel notes that in the reconsideration decision the ministry indicates that it has accepted that the appellant meets the criteria of EAPWDR section 67(1.1)(a). In the reconsideration decision the ministry states that the evidence provided does not support the symptom of underweight status. However, the ministry did find that the medical evidence confirmed that the appellant did display at least two of the listed symptoms, being malnutrition and significant neurological degeneration so the criteria of EAPWDR section 67(1.1)(b) were met. In addition, the reconsideration decision indicates that the appellant is in receipt of vitamin/mineral supplementation of \$40 per month. As the ministry found that the appellant met those criteria, the panel will not address those aspects of the legislation.

#### EAPWDR section 67(1.1) (c) and MNS Schedule C, section 7(a)

In the MNS Application, the Physician requires Ensure (2 cans per day), cranberry juice for urinary tract infections, and fibre powder and protein for constipation. The Physician indicates that the appellant's food does not have all elements for her condition and the recommended items will help her to improve her condition.

The Oncologist April 2018 Letter indicates that the appellant requires long term, ongoing use of protein powders and Ensure to counteract the malabsorption of nutrients from food. The Oncologist June 5, 2018 Letter indicates that the appellant has loss of muscle mass and body fat, and inoperable pre-sacral masses which may account for some extra weight but she should satisfy the underweight status. The Oncologist states that the appellant requires extra caloric supplementation in the form of long term, ongoing use of protein powders and Ensure to counteract the malabsorption of nutrients from food which alleviates the symptoms of malnutrition and malabsorption, neurological degeneration, and degeneration of vital organs. The Oncologist states that Ensure provides extra caloric supplementation to the regular diet required to regulate blood sugar, sustain body fat, and muscle mass.

The panel finds that the information when considered together, and in particular the additional details specified in the Oncologist June 2018 Letter, indicates that the appellant requires long term use of protein powders and Ensure as part of a caloric supplementation to a regular dietary intake needed to alleviate a symptom referred to in EAPWDR section 67(1.1)(b), particularly malnutrition and significant neurological degeneration.

As the information provided confirms that the MNS is required as part of a caloric supplementation to a regular dietary intake as required by Schedule C, section 7(a), for the purpose of alleviating a symptom referred to in EAPWDR section 67(1.1)(b), the panel finds that the ministry was not reasonable in determining that the information provided did not meet the legislative criteria of EAPWDR section 67(1.1)(c) and Schedule C, section 7(a).

#### EAPWDR section 67(1.1)(d) – imminent danger to life

In the MNS Application, the Physician specifically states that there is no danger to the appellant's life. In the April 2018 Letter, the Oncologist indicates that the effects of extensive radiation therapy will result in worsening health over time, but there is no information indicating that failure to obtain the nutritional items will result in imminent danger to the appellant's life.

In the June 2018 Letter, the Oncologist states that protein powders are medically essential, providing extra caloric supplementation to the regular diet required to alleviate muscle mass loss, sustain body fat, and prevent imminent danger to life. The Oncologist also states that fibre powder is medically essential to prevent bowel obstruction, and is required to aid in the absorption of sufficient calories required to sustain weight, alleviate muscle mass loss, prevent malnutrition, and prevent imminent danger to life.

The Oncologist June 2018 Letter also indicates that the literature shows that increased comorbidities such as malnutrition are associated with cardiovascular and cerebrovascular disease and death in adult survivors of

childhood cancers, such as the appellant.

As noted above, the panel notes that in its letter dated June 20, 2018 the ministry has indicated that had it had the Oncologist June 2018 Letter at the time of reconsideration it may have found that the appellant was eligible for the MNS. However, the term "imminent" requires some degree of immediacy and while the information provided by the Physician and the Oncologist indicate that the appellant's condition is associated with cardiovascular and cerebrovascular disease and neurological degeneration, there is no information to indicate that the appellant has cardiovascular disease or that she is facing imminent danger to her life as a result of the neurological degeneration. In addition, while the Oncologist indicates that fibre powder is medically essential to prevent bowel obstruction, there is no information indicating that the appellant has any bowel obstruction at present.

In particular, although the 2018 Ultrasound Report indicates that there is a 1.1 cm cyst between the cortex and medulla in the mid left kidney, it also indicates that both kidneys are otherwise unremarkable. The 2018 Ultrasound Report also indicates that the appellant's kidneys have normal sizes, shapes and positions and are unremarkable on Doppler examination. The subsequent Endovaginal Ultrasound Report dated March 6, 2018 indicates that the appellant has a large right adnexal complex mass of uncertain origin and the Medical Imaging Report MR Pelvis dated April 3, 2018 indicates that the appellant has a 4.9 cm homogeneously appearing cyst abutting the anterior and superior aspect of the upper sacrum on the right, most suggestive of benign cysts with no aggressive features identified. A follow up MRI in 1 year was recommended. While the imaging provided indicates that the appellant has cysts, the noted impressions do not contain any information indicating that failure to obtain the requested nutritional items will result in imminent danger to the appellant's life.

In the Submission, the appellant notes that the letter from the Neurosurgeon dated January 5, 2010 also speaks to the display of chronic, progressive deterioration to a vital organ, being her brain stem. The panel notes that the Neurosurgeon indicates that the appellant has substantial neurological disabilities, which interfere with her ability to effectively manage in advanced education settings and more generally in society. The Neurosurgeon indicates that the appellant's physical limitations include persistent weakness and limit her ability to get around easily. The Neurosurgeon indicates that the appellant's deficits are permanent and are likely to worsen over time either because of re-growth of the tumor or expansion of her brainstem or cord cyst(s). However, there is no information from the Neurosurgeon indicating that failure to obtain the requested nutritional items will result in imminent danger to the appellant's life.

The panel also notes that the Notes from the Radiation Oncologist dated October 25, 2000 to August 5, 2004 indicate that the appellant was diagnosed with recurrent ependymoma in spinal cord, recommended to undergo radiotherapy, and that after therapy completion, her diagnosis was recurrent ependymoma, spinal cord. However, there is no additional information from the Radiation Oncologist indicating that failure to obtain the requested items will result in imminent danger to the appellant's life.

While the Oncologist indicates that the appellant's condition will progressively get worse, and while the Oncologist states that the requested items will prevent imminent danger to life, the Oncologist does not provide information to indicate that there is an imminent danger to the appellant's life at the present time. A general statement indicating that the requested items will prevent imminent danger to life is not sufficient without explaining how the appellant's life is in imminent danger at the present time.

The panel finds that the ministry was reasonable in determining that the legislative requirements of EAPWDR section 67(1.1)(d) were not met.

### **Conclusion**

Having reviewed and considered all of the evidence and the relevant legislation, the panel finds that the ministry's reconsideration decision finding the appellant ineligible for MNS of nutritional items on the basis that the legislative criteria of EAPWDR section 67(1.1)(c) and Schedule C section 7(a) were not met was not a reasonable application of the legislation in the circumstances of the appellant. However the panel finds that the ministry's reconsideration decision finding the appellant ineligible or MNS of nutritional items on the basis that the legislative criteria set out in EAPWDR section 67(1.1)(d) was not met was reasonable.

The panel therefore confirms the ministry's decision and the appellant is not successful in her 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

Helene Walford

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/07/14

PRINT NAME

Neena Keram

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/14

PRINT NAME

Edward Wong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/07/14