

### **PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated July 12, 2018 which denied the appellant funding for Diabetic Test Strips (“DTS”). Specifically the Ministry found that the DTS were not a medical supply (Schedule C, section 2(1)(a) EAPWDR), were not medical equipment (Schedule C, section 3 EAPWDR), were not extended therapy (Schedule C, section 2(1)(c) EAPWDR), were not health supplements (Schedule C sections 1 – 9 EAPWDR), that the appellant did not have a life-threatening health need (s.69 EAPWDR), and that the DTS do not meet the criteria of a crisis supplement (s.57 EAPWDR)

### **PART D – RELEVANT LEGISLATION**

s.57, s.62, s. 69, Schedule C Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

## PART E – SUMMARY OF FACTS

The information before the Ministry at reconsideration was:

- On April 23, 2018 the Ministry received a letter completed from the appellant's physician which states "the appellant was diagnosed with diabetes January 2017 and this is expected to be life long. Currently is managed on diet and currently needs no medication."
- On April 30, 2018 the Ministry received another letter date from the Physician which states "the appellant was diagnosed with diabetes January 2017 and needs funds for a low carb diet".
- The appellant was approved for \$35.00 per month for a diabetic diet supplement.
- On May 7, 2018 the Ministry received a quote from a drug store dated April 27, 2018 indicating that the cost of 100 diabetic test strips for 30 days would be \$85.99. The appellant's medication history as of May 7, 2018 was also included. The diabetic test strip prescription was received on January 5, 2018 and again on April 27, 2018.
- On May 9, 2018 the appellant contacted the Ministry to ask if the Ministry would assist with the purchase of test strips but his request was denied.
- On May 10, 2018 an employment and assistance worker ("EAW") called the drug store to find out why the test strips were not being covered by PharmaCare and was advised that the appellant had exceeded his yearly allotment of test strips.
- On May 11, 2018 the Ministry received a referral letter dated May 9, 2018 completed by the appellant's Physician which states that the appellant is diagnosed with Diabetes Type 2 and he requires testing strips three times each day.
- The appellant appealed to the Health Assistance Branch ("HAB") for payment of the diabetic test strips. On May 14, 2018 the HAB denied the appellant's request for diabetic test strips on the basis that the diabetic test strips do not fall into any of their legislated categories and are not eligible items, and other resources may be available to the appellant.
- On May 16, 2018 a supervisor from the Ministry spoke with the appellant explaining that he would need special authorization from PharmaCare as they are responsible for providing diabetic testing strips. The supervisor provided the appellant with a crisis supplement for \$100 to prevent hardship while his request was being adjudicated.
- On June 22, 2018 the Ministry received an official prescription receipt dated February 15, 2018 from a drugstore. It indicated that the appellant would have to pay \$85.99 and that he was no longer covered as his maximum quantity had been exceeded. His prescription history was also included. The prescription history notes that prescriptions for DTS were received on January 6 and February 15, 2018.
- On June 25, 2018 a note was entered into his electronic records to the effect that the HAB did not take action on his request to cover DTS because a decision had already been made on May 14, 2018. An EAW contacted the appellant to suggest that he have his physician submit a request to PharmaCare for an increase. The appellant said he had done that but was denied because he was not using insulin. On June 25, 2018 a second decision was prepared by the HAB and sent to the appellant.
- On June 26, 2018 the appellant called the Ministry to inquire about the status of his decision. An EAW informed the appellant about the denial and offered the appellant the opportunity to request reconsideration of the decision.
- On June 28, 2018 the appellant completed his request for reconsideration which states: he needs to test his blood sugar because he has Diabetes Type 2, his doctor says he needs to test 3 times per day, he has high blood pressure, high cholesterol, anxiety and stress, he has sleep apnea, he falls asleep all the time and it stressed him out, his blood pressure is high due to worry about getting DTS, he has severe anxiety for over ten years and has been on medications, he has carpal tunnel syndrome in his wrist.

The appellant's notice of appeal dated July 17, 2018, does not provide new evidence but instead re-states the information he provided at reconsideration. He pays \$750 in rent and after that there is no money left. His blood glucose levels are such that [if not properly monitored] he could die.

At the hearing the appellant states that the Ministry does not know about diabetes. A person can die from diabetes and you can loose a limb from diabetes. He goes to the hospital to test his diabetes. He doesn't have money to buy his test strips. It is approximately \$90 for 100 test strips. He has tried to re-use the strips but they are not re-usable strips. If he buys strips he has no money for food. He pays \$750 per month for rent and \$40 per month for

hydro. He has diabetes, high cholesterol, and carpal tunnel syndrome. His eye sight is not straight. There are no other resources, he requires protein and nuts and meat for his diet. He cannot guess what his blood sugar level is. The appellant believes his physician has already done all he can to obtain Pharma Care. He faxed Pharma Care and was informed that he cannot get additional testing strips. The appellant says he would rather be in heaven with his father than live like how he is living. The Ministry states that DTS are not coverable in the Ministry legislation. The Ministry states that the appellant should have other resources to obtain the DTS.

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

The issue on appeal is whether the Ministry's decision to deny the appellant funding for DTS was reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant. Specifically, was it reasonable for the Ministry to determine that the DTS were not a medical supply (Schedule C, section 2(1)(a) EAPWDR), were not medical equipment (Schedule C, section 3 EAPWDR), were not extended therapy (Schedule C, section 2(1)(c) EAPWDR), were not health supplements (Schedule C sections 1 – 9 EAPWDR), that the appellant did not have a life-threatening health need (s.69 EAPWDR), and that the DTS do not meet the criteria of a crisis supplement (s.57 EAPWDR).

The legislation provides:

### **Crisis supplement – S. 57 EAPWDR**

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

- (a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and
- (b) the minister considers that failure to meet the expense or obtain the item will result in
  - (i) imminent danger to the physical health of any person in the family unit, or
  - (ii) removal of a child under the Child, Family and Community Service Act.

### **General health supplements – s.62 EAPWDR**

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.

[en. B.C. Reg. 145/2015, Sch. 2, [s. 4](#); am. B.C. Reg. 161/2017, App. 2, [s. 2](#).]

### **Health supplement for persons facing direct and imminent life threatening health need – s.69 EAPWDR**

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).

### **Schedule C EAPWDR**

2 (1) The following are the health supplements that may be paid for by the minister if provided to a family unit that

is eligible under [section 62](#) [general health supplements] of this regulation:

(a) medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all of the following requirements are met:

(i) the supplies are required for one of the following purposes:

- (A) wound care;
- (B) ongoing bowel care required due to loss of muscle function;
- (C) catheterization;
- (D) incontinence;
- (E) skin parasite care;
- (F) limb circulation care;

(ii) the supplies are

- (A) prescribed by a medical practitioner or nurse practitioner,
- (B) the least expensive supplies appropriate for the purpose, and
- (C) necessary to avoid an imminent and substantial danger to health;

(iii) there are no resources available to the family unit to pay the cost of or obtain the supplies;

[a.1](#) the following medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all the requirements described in paragraph (a) (ii) and (iii) are met in relation to the supplies:

- (i) lancets;
- (ii) needles and syringes;
- (iii) ventilator supplies required for the essential operation or sterilization of a ventilator;
- (iv) tracheostomy supplies;

[a.2](#) consumable medical supplies, if the minister is satisfied that all of the following requirements are met:

- (i) the supplies are required to thicken food;
- (ii) all the requirements described in paragraph (a) (ii) and (iii) are met in relation to the supplies;
- (b) Repealed. [B.C. Reg. 236/2003, Sch. 2, s. 2 (b).]
- (c) subject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,
  - (i) for which a medical practitioner or nurse practitioner has confirmed an acute need,
  - (ii) if the visits available under the [Medical and Health Care Services Regulation, B.C. Reg. 426/97](#), for that calendar year have been provided and for which payment is not available under the [Medicare Protection Act](#), and
  - (iii) for which there are no resources available to the family unit to cover the cost:

Item	Service	Provided by	Registered with
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the <a href="#">Health Professions Act</a>
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <a href="#">Health Professions Act</a>
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <a href="#">Health Professions Act</a>
4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the <a href="#">Health Professions Act</a>
5	non-surgical podiatry	podiatrist	College of Podiatric Surgeons of British Columbia under the <a href="#">Health Professions Act</a>
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the <a href="#">Health Professions Act</a>

(d) and (e) Repealed. [B.C. Reg. 75/2008, s. (a).]

(f) the least expensive appropriate mode of transportation to or from

- (i) an office, in the local area, of a medical practitioner or nurse practitioner,
- (ii) the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist in that field by a local medical practitioner or nurse practitioner,
- (iii) the nearest suitable general hospital or rehabilitation hospital, as those facilities are defined in [section 1.1](#) of the [Hospital Insurance Act Regulations](#), or

(iv) the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in [section 1](#) of the [Hospital Insurance Act](#),

provided that

(v) the transportation is to enable the person to receive a benefit under the [Medicare Protection Act](#) or a general hospital service under the [Hospital Insurance Act](#), and

(vi) there are no resources available to the person's family unit to cover the cost.

(g) Repealed. [B.C. Reg. 75/2008, s. (a).]

(1.1) For the purposes of subsection (1) (a), medical and surgical supplies do not include nutritional supplements, food, vitamins, minerals or prescription medications.

(2) No more than 12 visits per calendar year are payable by the minister under this section for any combination of physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services.

(2.1) If eligible under subsection (1) (c) and subject to subsection (2), the amount of a general health supplement under [section 62](#) of this regulation for physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services is \$23 for each visit.

(3) If the minister provided a benefit to or for a person under section 2 (3) of Schedule C of the Disability Benefits Program Regulation, B.C. Reg. 79/97, the Income Assistance Regulation, B.C. Reg. 75/97 or the Youth Works Regulation, B.C. Reg. 77/97, as applicable, for the month during which the regulation was repealed, the minister may continue to provide that benefit to or for that person as a supplement under this regulation on the same terms and conditions as previously until the earlier of the following dates:

(a) the date the conditions on which the minister paid the benefit are no longer met;

(b) the date the person ceases to receive disability assistance.

#### Optical supplements

2.1 The following are the optical supplements that may be provided under section 62.1 [optical supplements] of this regulation:

(a) basic eyewear and repairs;

(b) pre-authorized eyewear and repairs.

#### Eye examination supplements

2.2 The minister may pay a health supplement under section 67.2 [eye examination supplements] of this regulation for an eye examination that,

(a) if provided by an optometrist, is provided for a fee that does not exceed \$44.83, or

(b) if provided by an ophthalmologist, is provided for a fee that does not exceed \$48.90.

#### 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.

#### Dental supplements

4 (1) In this section, "period" means

(a) in respect of a person under 19 years of age, a 2 year period beginning on January 1, 2017, and on each subsequent January 1 in an odd numbered year, and

(b) in respect of a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.

(1.1) The health supplements that may be paid under section 63 [dental supplements] of this regulation are basic dental services to a maximum of

(a) \$2 000 each period, if provided to a person under 19 years of age, and

- (b) \$1 000 each period, if provided to a person not referred to in paragraph (a).
- (c) Repealed. [B.C. Reg. 163/2005, s. (b).]
- (2) Dentures may be provided as a basic dental service only to a person
- (a) who has never worn dentures, or
- (b) whose dentures are more than 5 years old.
- (3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if
- (a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,
- (b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or
- (c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.
- (4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.
- (5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under
- (a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
- (b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.
- (6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under
- (a) fee numbers 51101 and 51102 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
- (b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.
- (7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.
- Crown and bridgework supplement
- 4.1 (1) In this section, "crown and bridgework" means a dental service
- (a) that is provided by a dentist,
- (b) that is set out in the Schedule of Fee Allowances — Crown and Bridgework, that is effective April 1, 2010 and is published on the website of the ministry of the minister,
- (c) that is provided at the rate set out for the service in that Schedule, and



(d) for which a person has received the pre-authorization of the minister.

(2) A health supplement may be paid under section 63.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the person has a dental condition that cannot be corrected through the provision of basic dental services because

(a) the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances — Dentist, and

(b) one of the following circumstances exists:

(i) the dental condition precludes the use of a removable prosthetic;

(ii) the person has a physical impairment that makes it impossible for him or her to place a removable prosthetic;

(iii) the person has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic;

(iv) the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.

(3) The minister must also be satisfied that a health supplement for crown and bridgework will be adequate to correct the dental condition.

(4) A health supplement for crown and bridgework may not be provided in respect of the same tooth more than once in any period of 60 calendar months.

#### Emergency dental supplements

5 The health supplements that may be paid for under section 64 [emergency dental and denture supplements] of this regulation are emergency dental services.

#### 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.

#### Monthly nutritional supplement

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) Repealed. [B.C. Reg. 68/2010, s. 3 (b).]

(c) for vitamins and minerals, up to \$40 each month.

#### Natal supplement

8 The amount of a natal supplement that may be provided under section 68 [natal supplement] of this regulation is

(a) \$45 for each calendar month for a period set out in section 68 (2), or

(b) \$90 for each calendar month for a period set out in section 68 (2) if the person

(i) is pregnant with more than one child, as confirmed in writing by a medical practitioner, a nurse practitioner or a registrant of the College of Midwives of British Columbia, or

(ii) gives birth to more than one child.

Infant formula

9 The minister may provide infant formula under section 67.1 of this regulation if

(a) a medical practitioner or nurse practitioner confirms in writing that

(i) the dependent child for whom a specialized infant formula is to be provided has a medical condition and the specialized infant formula is necessary to treat the medical condition, or

(ii) the dependent child for whom the infant formula is to be provided is at risk of contracting a disease that is transmissible through the mother's breast milk,

(b) in the case of a dependent child described by paragraph (a) (ii), the dependent child is under 12 months of age, and

(c) the minister is satisfied that the infant formula is medically required to treat the medical condition or respond to the risk referred to in paragraph (a).

The panel finds:

The Ministry reviewed the available sections of the EAPWDR to determine if the DTS fit into one of the legislated categories.

The Ministry determined that the items were not medical or surgical supplies as defined in Schedule C, Section 2(1)(a) EAPWDR. In order to be a medical or surgical supply the item must be used for a legislated purpose set out in s.2(1)(a)(i) A - F. Testing is not one of the legislated purposes. Additional medical supplies that may be provided are described in s.2(1)(a.1)(i) – (iv). The Ministry founds that DTS were not one of the legislated supplies. The panel finds that it was reasonable for the Ministry to determine that DTS were not a medical or surgical supply on the basis that they were not in the legislated list and did not meet one of the legislated purposes.

The Ministry determined that the DTS were not medical equipment as defined in Schedule C, section 3 EAPWDR. The Ministry reviewed all of the legislated equipment in s.3 and determined that DTS did not fit into any of the legislated criteria. The panel find that it was reasonable for the Ministry to determine that DTS were not medical equipment

The Ministry determined that the DTS were not extended therapy as defined in Schedule C, section 2(1)(c) EAPWDR. The panel finds that it was reasonable for the Ministry to determine that DTS were not a legislated therapy as they were not used for the legislated therapies in s.2(1)(a.2)(c)(iii) 1 – 6.

The Ministry determined that the DTS were not any other health supplements set out Schedule C sections 1 – 9 EAPWDR. They were not optical supplements, eye examination supplements, dental supplements, crown and bridgework supplements, emergency dental supplements, diet supplements, monthly nutritional supplements, natal supplements, and infant formula. The panel finds that it was reasonable for the Ministry to determine that DTS did not fit into any of these legislated criteria.

The Ministry determined that the appellant was not eligible pursuant to s.69 EAPWDR as the item requested was not needed to address a direct and imminent life-threatening health need s.69 EAPWDR. The panel finds that since a requirement of s.69 is that the health need must be a medical supply, medical equipment, or medical transportation and the DTS were already determined as not qualifying as any of those items, it was reasonable for the Ministry to determine that the appellant did not qualify pursuant to s.69 EAPWDR. The Ministry also

determined that the appellant in this case did not suffer from an imminent life threatening health need for the DTS. Although Diabetes is a serious and potentially life threatening illness, there was not evidence that the appellant would face an imminent life threatening situation without the DTS. The appellant's physician did not state in his evidence that a failure to obtain the DTS would be life threatening to the appellant imminently or otherwise. The appellant provided some evidence about the dangers of diabetes, however did not provide sufficient evidence about suffering an imminent life threatening illness without the DTS. The panel finds that given that the Ministry was not provided with information from the appellant's doctor or adequate information from the appellant himself that he could suffer an imminent life threatening illness without the DTS it was reasonable for the Ministry to conclude that the appellant did not meet this requirement of s.69 EAPWDR.

The Ministry determined that the DTS would not meet the criteria of a crisis supplement pursuant to s.57 EAPWDR. The first requirement of s.57 EAPWDR is that the items cannot be a Schedule C item or any other health care goods or services. The Ministry determined that the DTS were not Schedule C items but were certainly health care goods as they were used as a diagnostic item to test for a health related illness. The panel finds that this was a reasonable determination by the Ministry.

For these reasons, the panel finds the ministry's decision was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision. The appellant is not successful on 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

MEGHAN WALLACE (by telephone)

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

PRINT NAME

JANE NIELSEN

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

PRINT NAME

LINDA SMERYCHYNSKI

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)