

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the “Ministry”) December 4, 2013 reconsideration decision denying the Appellant a quad cane and a Sprite Grand walker because the Ministry determined that the Appellant did not meet the criteria for a health supplement in section 76 of the Employment and Assistance Regulations, and specifically because the information provided did not substantiate that the Appellant required these items to meet a direct and imminent life-threatening health need.

PART D – Relevant Legislation

Employment and Assistance Act (“EAA”) Section 4.

Employment and Assistance Regulations (“EAR”) Section 76.

PART E – Summary of Facts

With the consent of both parties, the hearing was conducted as a written hearing pursuant to section 22(3)(b) of the EAA.

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant receives income assistance, but the Appellant has not been designated as a Person With Disabilities (“PWD”) or qualified as a person with persistent multiple barriers (“PPMB”) under provincial legislation.
2. Appellant’s request for a quad cane and Sprite Grand walker with a physiotherapist’s assessment dated October 28, 2013, which indicated that:
 - The Appellant’s diagnoses are lumbar scoliosis with disc narrowing and left hip arthritis.
 - The Appellant has limited mobility due to back and leg pain and has movement limitations.
 - The Appellant trialed a 4-wheeled walker for flat walking which improved her gait pattern and mobility.
 - The quad cane is required to safely go upstairs to the upper level of her home.
 - Both items have to be purchased after the current loan of 3 months.
3. Quotes for a quad cane for \$24.65 and for a Sprite Grand walker for \$322.96 from a medical equipment supplier dated October 29, 2013.
4. The Appellant’s request for reconsideration in which she wrote that she should have had the walker and cane ages ago because they really make a difference. She stated that the arthritis in her lower back and hips makes movement painful and difficult, with any type of bending a particular challenge. The walker helps her walk straight and eases pressure on her knees. The Appellant wrote that she can sit down in line ups and when she needs to rest. The cane steadies her on the stairs of her home. She also stated that she rearranged the furniture in her front room to allow her to wheel around the room on rainy days so that she can exercise. She wrote that the equipment is on loan for 3 months beyond the initial loan period. The Appellant stated that she really can’t do without the walker and cane. They contribute profoundly to her quality of life.

In her notice of appeal, the Appellant wrote that her status should be PWD as it is federally. She can’t work and she is not faking pain. She also stated that she can’t go across the street without support from her walker. The device is truly necessary for her health and well-being. Without it she could not go anywhere and would be housebound. The Appellant stated that this is not healthy. Without the cane for the stairs she would have to crawl.

Pursuant to section 22(4) of the EAA, the Panel admits the information in the Appellant’s notice of appeal as providing details about her health condition and therefore being in support of the evidence that was before the Ministry at reconsideration.

The Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact:

1. The Appellant receives income assistance.
2. The Appellant has not been designated as a PWD or qualified as a PPMB under provincial legislation.
3. The Appellant has been diagnosed with lumbar scoliosis with disc narrowing and left hip arthritis.
4. The Appellant provided no information about a direct and imminent life threatening health condition or need.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant a quad cane and a Sprite Grand walker because the Ministry determined that: the Appellant did not meet the criteria for a health supplement in section 76 of the EAR, and specifically because the information provided did not substantiate that these items are required by the Appellant to meet a direct and imminent life-threatening health need.

Section 4 of the EAA provides that subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

Section 76 of the EAR provides as follows:

76 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) the person's family unit is receiving 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 3.11, other than paragraph (a) of section 3(1).

The Parties' Positions

The Appellant submitted in her notice of appeal that she can't go across the street without support from her walker. The device is truly necessary to her health and well-being. She submitted that without it she could not go anywhere and would be housebound. The Appellant stated that this is not healthy. Also, the Appellant submitted that without the cane for stairs she would have to crawl.

The Ministry acknowledged that the Appellant has certain limitations resulting from her medical conditions which a quad cane and walker would benefit. However, the Ministry determined that the Appellant did not meet the legislated eligibility criteria for a health supplement or medical equipment and devices, and specifically that the information provided does not substantiate that these items are required to meet a direct and imminent life-threatening health need.

The Panel's Findings and Conclusion.

The Ministry may provide medical equipment and devices to a person receiving income assistance, if the provisions in section 76 of the EAR are met. The first requirement is that the evidence must establish that the person faces a direct and imminent life threatening need without the equipment. In this case, the Panel finds that there is evidence of the Appellant's physical health conditions and mobility restrictions which the requested equipment would help improve. However, the Panel also finds that there is no evidence of any direct or imminent life threatening need for the requested equipment. Therefore, the Ministry reasonably determined that the Appellant did not meet the criteria in section 76 of the EAR for the medical equipment.

In conclusion, having considered all of the evidence and the applicable legislation, the Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence. Therefore, the Panel confirms that decision.