

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 21, 2019 which found that the appellant is not eligible for funding for a power generator (for medical equipment) as the appellant did not meet the legislated criteria set out in sections 62 and 69 and Schedule C of the EAPWD Regulation.

Specifically, the ministry did not consider a power generator (for medical equipment) to be an accessory or supply to a breathing device (e.g. BiPAP or nebulizer) under EAPWDR Schedule C sections 3.9(1)(a) and (e).

The ministry also found that the information provided with the appellant's application and request for reconsideration does not demonstrate that failure to obtain a power generator (for medical equipment) would result in imminent danger to his life pursuant to section 69 of the EAPWDR.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 62 and 69.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule C.

## PART E – SUMMARY OF FACTS

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

Prescription Note by Dr. N, dated January 7, 2019: He states that:

- “ has quite difficult to control asthma for which he uses a nebulizer periodically.
- This is complicated by numerous other medical problems.
- He also uses BI-PAP.
- He is hoping to buy a generator so he has use [of] both Bi-PAP and nebulizer during power outages.
- I would support such an application.”

Undated handwritten note naming 3 hardware stores and amounts of \$399 (plus tax), \$1500, and \$359.

Self-report by the appellant received by the ministry on February 11, 2019. The appellant states:

- His home town was impacted by a significant weather event on December 20. Although his power was not significantly affected by this weather event he was extremely anxious knowing he could lose power and therefore lose the ability to use his breathing devices.
- During a power outage in 2008 he had to move into a hotel for 5 days. The ministry covered the cost of the hotel stay to ensure he had access to his life saving devices.
- Although the doctor states a generator or battery pack would work, the appellant advises that a battery pack would not work for his particular device.
- Argument is included in part F (Reasons).

Letter by Dr. M dated February 1, 2019. She writes:

- “This patient is under my care for severe obstructive sleep apnea, with an apnea hypopnea index of 85 events per hour on polysomnography in March 2017.
- Because of morbid obesity and the severity of his sleep-disordered breathing, he requires treatment with an advanced ventilator: ResMed BiPAP with iVAPS.
- It is absolutely mandatory that he uses this equipment every single night while sleeping, as his condition is life-threatening if he does not remain on treatment.
- He lives in an area where power outages have recently occurred, and are likely to occur again in the future. It is very important that he be able to use his equipment during a power outage and so he needs to be funded for either a battery pack for his ventilator, or a generator”.

User Guide for the “AirSense 10 CPAP”. [At the hearing the appellant confirmed that this is the breathing device he is currently using and for which he requests funding for a generator.] It includes the following information:

- “Contact your care provider for a range of accessories available ...”
- “WARNING ...The use of accessories other than those specified for the device is not recommended. They may result in increased emissions and decreased immunity of the device. “
- CAUTION Use only ResMed parts and accessories with the device. Non-ResMed parts may reduce the effectiveness of the treatment and/or damage the device...”

Various medical documents/reports related to the appellant's sleep apnea and his need for BiPAP treatment.

General Information about sleep apnea and BiPAPs.

BC Hydro News Release dated November 16, 2018: It includes the following information:

- The number of storm events BC Hydro has responded to has tripled over the past 5 years.
- Resulting impacts and BC Hydro's plans.

At the hearing the appellant provided a written submission containing the following documents:

- a self report interspersed with argument - argument will be included in part F (Reasons);
- a letter dated March 15, 2019 by the appellant's respiratory therapist, and
- online information about 6 generators from Canadian Tire including price quotes. The appellant had circled the least expensive model (\$399.99) - a 1200W Champion Portable Gas Generator. At the hearing the appellant stated that this is the device he wanted.

The appellant stated that he had presented the ministry with this submission after the reconsideration decision but the ministry would not accept it.

The ministry had no objections to this new evidence being admitted as long as it was acknowledged that the ministry did not have this new information at reconsideration.

The therapist states that

- the appellant is currently set up on an Air Curve 10 ST-A ventilator w/iVAPS to control his very obstructive sleep apnea (AHI = 85 events/hr, above 30 events/hr is considered severe).
- The AirCurve 10 ST-A is not a regular AP machine, it is a Bi-Level ventilator that controls the rate and volume of the appellant's breathing while he is asleep.
- With the power outages in the past the appellant had to be put up in a motel in order to use his BiPAP w /iVAPS.
- The appellant is unable to sleep even one night without his equipment, as his condition is life threatening if not treated.
- The appellant must be able to use his equipment during power outage, and the only way to ensure this is if he has access to backup power such as a generator, for his ventilator.
- Not using his equipment, even for one night, is not an option for the appellant.

In his self-report the appellant states that

- he relies on his devices for breath while he sleeps and when he coughs, wheezes or has an asthma attack. Without them, he will die unless emergency services can reach him in time.
- His health professionals are assisting him to develop a safety plan in the event the power source is interrupted as in the case of a power outage.
- The ministry has purchased a BiPAP breathing device so that he can sleep. He has to sleep during the day and 12 hours at night. If the power goes out he stops breathing.
- The ministry has purchased a nebulizer for him to assist him to breath during an asthma attack or a coughing spell. This machine requires a power source to ensure that he can access the life saving medications the nebulizer delivers.
- The ministry has purchased a hospital bed for him that allows him sitting when necessary to continue to breath and assists him to sleep. His bed relies on a power source.

- The ministry had purchased the battery pack for his previous BiPAP.
- His health professionals have all advised that a generator is required.
- The only option to ensure continuous breathing in the event of a power failure is to have a generator - it would keep his BiPAP going. Also, it would allow him to use his nebulizer and hospital bed.
- BC Hydro advised him to contact 911 or his health care provider in case of a power failure.
- His health care providers "are proactively supporting a safety plan for [the appellant] in the event of a power outage. Their plan is that [the appellant] purchases a generator. They understand that not planning for this may have a disastrous result".
- At a previous power outage the appellant and his care aid immediately called 911. Fortunately, it was during the day when his care aid was there. The paramedics arrived and immediately provided the asthma medicine that he requires with their oxygen tank. They then transported him to the hospital where he stayed for about 6 hours to get the rest of his treatments to ensure continuous breathing. He was then released with instructions to return every hour. This continued for 4 days. The ambulance picked him up, took him to the hospital and drove him back home, every hour for 4 days.
- After 4 days, the ambulance could not continue to provide this level of service. It was impacting their ability to meet other people's emergency needs. He contacted the ministry. Under their crisis budget, the ministry paid for a motel and food for both him and his care aid for another 4 days until the power returned. Both the need for the emergency services and extra funds from the ministry would not have been required if he had owned a generator.

At the hearing the appellant testified that

- in 2009 he was diagnosed with sleep apnea which got considerably worse in 2018. When electricity goes out he wakes up, gasps for breath, cannot go back to sleep, is cranky afterwards. During a power outage he went to his care giver's home for 2 hours - he was "cranky", "droopy".
- The device he currently uses was not the one he originally hoped and applied for and which would have had a back-up. As the desired device was not available immediately his respiratory therapist requested the one he currently has because the appellant needed a new device as his old machine had given out. His current device does not have a back-up.
- A power pack may work with his device. Maybe there is a power pack available for his machine - his respiratory therapist told him so - it would last for 17 hours.
- His nebulizer does not have a battery pack.
- He wants to use a generator for all of his equipment including his medical bed.
- His care giver would operate the generator. She is with him 6-8 hours per day, not in the night.
- He pays for distilled water for his machine and the ministry provides cleaning supplies for his BiPAP - they come with his monthly "medical pack".
- He has emergency services available where he lives.

The witness testified that

- she cleans the machine and knows how to operate it.
- She has been his house keeper twice a week since 2004; after 2-3 years she became his care giver. She only works 8 hours per day and is not there during the night.
- He also sleeps in the day.
- She lives across the street from the appellant. It takes her 5-10 minutes to get to him. She attended him once at 10 pm.

The ministry presented the reconsideration decision and added the following information:

- Before the ministry makes purchases for clients their needs are assessed against legislation - that is standard procedure.
- A BiPAP is for Sleep Apnea and is not a ventilator. A ventilator provides oxygen to lungs that cannot breathe by themselves. Some ministry staff are very familiar with medical equipment.
- It is beyond the ministry's scope to provide power.
- BC Hydro is not able to guarantee an uninterrupted power supply. The ministry cannot be expected to provide continuous power.
- The ministry is not prohibiting the appellant from buying a generator.
- A battery is a supplemental, not a primary power source.
- The ministry provides a variety of items such as battery packs, adapters, replacement supplies, parts that get worn out; it also provides add-ons if they are medical necessary, such as a basket for a scooter.
- Generally speaking, the ministry would probably provide batteries for a BiPAP.

Admissibility of new evidence

The panel admitted the new documents and information at the hearing pursuant to section 22(4) of the *Employment and Assistance Act* as this information is in support of information about the appellant's medical condition and his breathing devices that was before the ministry at reconsideration.

[Redacted]

**PART F – REASONS FOR PANEL DECISION**

The issue in this appeal is whether ministry decision which found that the appellant is not eligible for funding for a power generator (for medical equipment) as the appellant did not meet the legislated criteria set out in sections 62 and 69 and Schedule C of the EAPWDR is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Specifically, was the ministry reasonable when it did not consider a power generator (for medical equipment) to be an accessory or supply to a breathing device (e.g. BiPAP or nebulizer) pursuant to sections 3.9(1)(a) and (e)?

And, was the ministry reasonable when it found that the information provided does not demonstrate that failure to obtain a power generator would result in imminent danger to his life pursuant to section 69 of the EAPWDR?

**EAPDWR**

**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...

**69 Health supplement for persons facing direct and imminent life threatening health need**

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:

...

(ii) sections 3 to 3.12, ...

## Schedule C

### 2 General health supplements

**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)...(i)...

(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)...

(a.1)...

(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...

(i)the supplies are required to thicken food;

...

(c)... a service provided by a person ...

(f)the least expensive appropriate mode of transportation ...

...

### 2.1 Optical supplements

### 2.2 Eye examination supplements

### 3 Medical equipment and devices

(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 ...

**3.1 Medical equipment and devices — canes, crutches and walkers**

**3.2 Medical equipment and devices — wheelchairs**

**3.3 Medical equipment and devices — wheelchair seating systems**

**3.4 Medical equipment and devices — scooters**

**3.5 Medical equipment and devices — toileting, transfers and positioning aids**

**3.6 Medical equipment and devices — hospital bed**

**3.7 Medical equipment and devices — pressure relief mattresses**

**3.8 Medical equipment and devices — floor or ceiling lift devices**

**3.9 Medical equipment and devices — breathing devices**

(1) Subject to subsection (4) of this section, the following items are health supplements for the purposes of section 3 of this Schedule:

(a) if all of the requirements set out in subsection (2) of this section are met,

(i) a positive airway pressure device,

(ii) an accessory that is required to operate a positive airway pressure device, or

(iii) a supply that is required to operate a positive airway pressure device;

...

(e) if the minister is satisfied that the item is medically essential to avoid an imminent and substantial danger to health,

(i) a nebulizer,

(ii) an accessory that is required to operate a nebulizer, or

(iii) a supply that is required to operate a nebulizer;

...

(2) The following are the requirements in relation to an item referred to in subsection (1) (a) of this section:



(a)the item is prescribed by a medical practitioner or nurse practitioner;

(b)a respiratory therapist has performed an assessment that confirms the medical need for the item;

(c)the minister is satisfied that the item is medically essential for the treatment of moderate to severe sleep apnea.

...

(4)A ventilator is not a health supplement for the purposes of section 3 of this Schedule.

### **3.10 Medical equipment and devices – orthoses**

### **3.11 Medical equipment and devices – hearing instruments**

### **3.12 Medical equipment and devices – non-conventional glucose meters**

## **4 Dental supplements**

### **4.1 Crown and bridgework supplement**

### **5 Emergency dental supplements**

### **6 Diet supplements**

### **7 Monthly nutritional supplement**

### **8 Natal supplement**

### **9 Infant formula**

## **MINISTRY POSITION**

### **“BiPAP” or “ventilator”?**

While a doctor refers to the appellant's BiPAP as a ventilator the ministry finds that a BiPAP which is required for treatment of sleep apnea is not a ventilator which provides oxygen to the lungs of a person who cannot breathe on their own.

The Appellant is not eligible for a power generator (for medical equipment) as a breathing device:

EAPWDR Schedule C, sections 3.9(1)(a) and 3.9(1)(e) set out that the following items are health supplements for the purposes of section 3

(a) if all of the requirements set out in subsection (2) of this section are met:

- (i) a positive airway pressure device,
- (ii) an accessory that is required to operate a positive airway pressure device, or
- (iii) a supply that is required to operate a positive airway pressure device;

(e) if the minister is satisfied that the item is medically essential to avoid an imminent and substantial danger to health,

- (i) a nebulizer,
- (ii) an accessory that is required to operate a nebulizer, or
- (iii) a supply that is required to operate a nebulizer;

The ministry acknowledges that the appellant requires BiPAP and nebulizer treatment and that he currently has these devices.

It is noted that Schedule C sections 3.9.(1)(a) and (e) allow for funding of accessories and supplies required to operate positive airway pressure devices (e.g. BiPAP) and nebulizers. It is acknowledged that a power source is needed for a BiPAP or nebulizer to function. Although the ministry considers items such as plugs and AC adaptors, which connect to a power source, to be accessories to a breathing device, the ministry does not consider the power source itself to be an accessory or supply to a breathing device (e.g. BiPAP or nebulizer). Therefore the ministry cannot provide funding for a power generator as an accessory or supply under EAPWDR Schedule C sections 3.9(1)(a) and (e).

The ministry also acknowledges the appellant may temporarily lose power to his home at any time, in particular during winter storms, as is the case with any typical modern home. It is noted that in the case of medical emergencies caused by unexpected weather events, it is reasonable to expect one to take advantage of emergency community resources, such as ambulance or hospital services.

The appellant is not eligible for a power generator (for medical equipment) as another type of medical equipment:

Sections 3.1 to 3.12 set out which medical equipment and devices the ministry is authorized to provide; a power generator is not one of these.

The appellant is not eligible for a power generator (for medical equipment) as a medical supply.

Schedule C section 2(1):

The ministry finds that:

- The item requested is not a disposable or reusable medical or surgical supply.
- ...is not *directly* required for one of the purposes set out in the EAPWDR, Schedule C section 2(1)(a)(i).
- ...is not necessary to avoid imminent and substantial danger to health
- ...is not set out in the EAPWDR Schedule C sections 2(1)(a.1) or 2(1)(a.2).

[Redacted]

A power generator (for medical equipment) is not an item set out in any of the other sections of the EAPWDR, Schedule C

- a) It does not meet the criteria of a therapy (sections 2(1)(c), 2(2) and 2(2.1)
- b) It does not meet the criteria as one of the remaining health supplements: Sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 and 9 (optical supplements, eye examination supplements, dental supplements, crown and bridgework supplements, denture supplements, emergency dental supplements, diet supplements, natal supplements, and infant formula.

The appellant is not eligible for a power generator (for medical equipment) under Life-Threatening Health Need under EAPWDR section 69

- Section 69 applies to health supplements set out in Schedule C and is intended to provide a remedy for those persons who are facing a direct and imminent life-threatening health need for these supplements and who are not otherwise eligible to receive them. As the appellant is a recipient of disability assistance he is eligible to receive health supplements under EAPWDR, Schedule C. Therefore, he does not require the remedy under section 69.
- Although in her letter Dr. [Redacted] states that his condition is life-threatening if he does not remain on nightly BiPAP treatment, the information provided with his application and request for reconsideration does not demonstrate that the appellant faces a **direct and imminent** [emphasis sic] life-threatening health need for a power generator (for medical equipment).
- A power generator (for medical equipment) is not a health supplement set out in Schedule C sections 2(1)(a) and (f) or section 3.

As the appellant's request does not meet this legislated criterion the appellant is not eligible for a power generator (for medical equipment) under section 69.

As previously noted, the ministry acknowledges that he may temporarily lose power to his home at any time, in particular during winter storms, as is the case with any typical modern home. It is noted in the case of medical emergencies caused by unexpected weather events, it is reasonable to expect one to take advantage of emergency community resources, such as ambulance or hospital services.

#### APPELLANT'S POSITION

The appellant disagrees with the ministry decision that "a generator used to power a breathing device required for life saving purposes" (as per Dr. M's letter) does not meet the definition of an "accessory that is required to operate" the life saving breathing device. Legislation does not set out that a "power source" is excluded from the definition of an "accessory". The appellant argues that the ministry has latitude and discretion when it comes to what they choose to cover as an accessory to a breathing device or a nebulizer. "The EAPWDR does not provide a definition of "accessory". It also does not provide a list of items that are considered to be an accessory." This should allow the ministry some discretion in their interpretation of this word when assessing whether a generator can be considered an accessory when it is supporting a breathing device.

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As there is no definition of accessory, and there is no exhaustive list of what is considered an accessory, it can be argued that the ministry made a decision based on discretion and subjective interpretation. If discretion and subjective interpretation are being used, they should be used to err on the side of the appellant's health and safety.

As the ministry had purchased the battery pack as a required accessory for his previous BiPAP it is clear that a battery pack met the definition of an accessory at that time. Furthermore, the battery pack is undeniably a power source. If a battery pack, a power source, is considered an accessory, a generator as an alternative power source, also meets the definition of an accessory.

The appellant argues further that a power generator, when used to power a breathing device, can be considered a "supply required to operate" a breathing device as set out in EAPWDR Schedule C section 3.9.

His health professionals advise that he requires a power generator at all times because this is the only option to ensure continuous breathing in the event of a power failure. It would also allow him to continue using his nebulizer and hospital bed. Failure to obtain a power generator could result in his death. Without his breathing devices he will die unless emergency services can reach him in time.

Once during a power outage he used emergency services including a stay in the hospital. In addition, the ministry paid for a motel and food for him and his care aid until the power returned. Emergency services and additional funds from the ministry would not have been required had he owned a generator.

## **PANEL DECISION**

### **BiPAP or Ventilator (EAPWDR)**

While Dr. M and the respiratory therapist speak of the appellant's breathing device as a "BiPAP" and at the same time call it a "ventilator" the panel finds that the ministry reasonably determined that a BiPAP is not a ventilator for the purpose of the EAPWDR. The reason for the panel's finding is based on legislation as follows:

Section 3.9 of Schedule C sets out "positive airway pressure devices" (PAPs) and is relevant for the appellant's request because he had received his BiPAP from the ministry under this section, and he is now requesting funding for a generator for this BiPAP.

Furthermore, section 3.9(4) explicitly states that "a ventilator is not a health supplement for the purpose of section 3 of this Schedule".

The panel notes that while ventilator supplies are set out under section 2(1)(a.1), a ventilator itself is not among the items the ministry may provide under Schedule C of the EAPWDR.

### **Eligibility for a power generator (for medical equipment) as a breathing device (sections 3.9(1)(a) and (e))**

While the appellant argues that the EAPWDR does not provide a definition of what constitutes an accessory or supply, the panel finds that sections 3.9(1)(a) and (e) define an accessory and a supply as items that are "required to operate" "a positive airway pressure device breathing device" or "a nebulizer".

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The panel finds that as BC Hydro is the main power provider for all devices that operate on electricity and as the ministry does not have an unlimited budget available the ministry's determination that a power source itself is not an accessory or supply to a breathing device to be a reasonable exercise of discretion under section 3(1). The ministry cannot be expected to provide continuous power where BC Hydro itself is not able to.

While the appellant argues the ministry used their discretion subjectively when they denied him funding for a power generator (for medical equipment) the panel finds that there is not sufficient evidence that the ministry exercised their discretion subjectively or unreasonably/unfairly in the appellant's circumstances.

The panel also finds that in case a power outage caused by unexpected weather events leads to a medical emergency, it is reasonable to expect one to take advantage of emergency community resources, such as ambulance or hospital services.

For these reasons the panel finds that the ministry reasonably determined that the appellant is not eligible for a generator as a breathing device under section 3.9(1)(a) and (e).

**Eligibility for a power generator (for medical equipment) as another type of medical equipment (sections 3.1 to 3.12)**

Sections 3.1 to 3.12 set out and list the following medical equipment and devices the ministry is authorized to provide: canes, crutches and walkers; wheelchairs; wheelchair seating systems; scooters; toileting, transfer and positioning aids; hospital bed; pressure relief mattresses; floor or ceiling lift devices; breathing devices; orthoses; hearing instruments; non-conventional glucose meters.

A power generator (for medical equipment) is not one of these items, and as a result the panel finds that the ministry reasonably determined that the appellant is not eligible for a power generator (for medical equipment) under sections 3.1 to 3.12.

**Eligibility for a power generator (for medical equipment) as a medical or surgical supply (sections 2(1)(a), 2(1)(a.1) and 2(1)(2.a)**

Schedule C section 2(1)(a) sets out disposable or reusable medical or surgical supplies required for wound care, ongoing bowel care required due to loss of muscle function, catheterization, incontinence, skin parasite care, or limb circulation care. Section 2(1)(a.1) sets out lancets, needles and syringes, ventilator supplies required for the essential operation or sterilization of a ventilator [as previously determined, the appellant's BiPAP is not a ventilator for the purpose of the EAPWDR], or tracheostomy supplies; and section 2(1)(a.2) sets out consumable supplies that are required to thicken food.

As a power generator (for medical equipment) is not among these items, the panel finds that the ministry reasonably determined that the appellant is not eligible for a power generator (for medical equipment) as a medical or surgical supply under sections 2(1)(a), 2(1)(a.1) and 2(1)(2.a).

[Redacted]

**Eligibility for a power generator (for medical equipment) under any other section of the EAPWDR, Schedule C (sections 2(1)(c), 2(2), 2(2.1), 2.1, 2.2, 4.4.1, 5, 6, 7, 8 and 9)**

As a power generator (for medical equipment) does not meet the criteria of a therapy (sections 2(1)(c), 2(2) and 2(2.1), or the criteria as one of the remaining health supplements set out in sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 and 9 (optical supplements, eye examination supplements, dental supplements, crown and bridgework supplements, denture supplements, emergency dental supplements, diet supplements, natal supplements, and infant formula), the panel finds that the ministry reasonably determined that the appellant is not eligible for a power generator (for medical equipment) under these sections.

**Eligibility for a power generator (for medical equipment) under a Life-Threatening Health Need (section 69 of the EAPWDR)**

Section 69 of the EAPWDR sets out that the ministry may provide any health supplement set out in sections 2(1)(a) and (f) and 3 of Schedule C, if the health supplement is provided to or for a person who is otherwise not eligible under this regulation, and if the minister is satisfied that the person faces a direct and imminent life threatening need.

While Dr. M and the therapist state that the appellant's condition is life-threatening if he does not remain on nightly BiPAP treatment, the panel finds that there is not enough evidence that failure to obtain a power generator (for medical equipment) will result in direct and imminent danger to the appellant's life. Consequently, the panel finds that the ministry reasonably determined the appellant was not eligible for a power generator (for medical equipment) under section 69 of the EAPWDR.

The panel notes that it is unclear how a generator from a hardware store such as Canadian Tire would operate the appellant's breathing device when the user guide for the appellant's device contains the following warning: "the use of accessories other than those specified for the device is not recommended. They may result in increased emissions and decreased immunity of the device...Non-ResMed parts may reduce the effectiveness of the treatment and/or damage the device". The panel notes further that there is no generator included in the list of available accessories.

In addition, the panel notes that it is unclear how the appellant would use this generator in case of a power outage. How would he turn it on? Is the generator placed inside or outside of the appellant's home? How would the appellant deal with the exhaust fumes? How many hours does it run before the gas needs refilling? How would the appellant take care of refilling the gas tank?

In conclusion, the panel finds the ministry's decision was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant and confirms the decision. The appellant is not successful on appeal.

<b>PARTG-ORDER</b>	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRM THE MINISTRY DECISION <input type="checkbox"/> RESCIND THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>LEGISLATIVE AUTHORITY FOR THE DECISION:</b>	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> and Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

<b>PARTH-SIGNATURES</b>	
PRINT NAME Inge Morrissey	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/03/26

PRINT NAME Donald Stedeford	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/03/26
PRINT NAME Marnee Pearce	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/03/26