

PART C -- DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated January 29, 2020 which denied the appellant's request for a supplement to cover the cost of a canopy and a windshield as an accessory attached to a scooter. The ministry found that the requirements of Schedule C of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) were not met and that:

- the requirement for a prescription of a medical or nurse practitioner and an assessment by an occupational or physical therapist was not met [Schedule C, Section 3(2)];
- the total cost of the scooter and the requested accessories attached to the scooter exceeds \$3,500 [Schedule C, Section 3.4(3)(b); and,
- there is insufficient information to show that the requested accessories attached to a scooter are medically essential to achieve or maintain basic mobility [Schedule C, Section 3.4(3)(c)].

The ministry also found that the appellant is not eligible for the requested accessories attached to a scooter as a life-threatening health need under Section 69 of the EAPWDR, and that the requested accessories attached to a scooter are not available through a request for a crisis supplement under Section 57 of the EAPWDR.

PART D -- RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 57, 62 and 69, and Schedule C, Sections 3, 3.4

PART E – SUMMARY OF FACTS

The evidence before the ministry at the time of the reconsideration decision included:

- 1) Quotation dated December 5, 2018 for a windshield at a cost of \$250 and a canopy at a cost of \$300, for a total cost of \$550;
- 2) Quotation dated December 6, 2018 for a Shoprider Trailblazer SE at a total cost of \$3,500;
- 3) Prescription dated January 7, 2019 for a scooter, raised toilet seat, toilet safety frame, a handheld shower, and a replacement cap/glide for two-wheel walker;
- 4) Quotation dated January 16, 2019 for raised toilet seat with arms for a total cost of \$499.00;
- 5) Quotation dated January 22, 2019 from a home health products supplier for handheld shower and walker ski glide for a total cost of \$110.58;
- 6) Medical Equipment Request and Justification (MERJ) dated February 22, 2019 that does not describe the medical condition or the medical equipment required;
- 7) Occupational Therapy Report dated February 15, 2019 in which the Occupational Therapist (OT) provided information, including:
 - The appellant requested the OT assessment to obtain a new scooter as the appellant's current scooter was unreliable and 5 years old.
 - The appellant uses the scooter daily for all community mobility and transportation needs. The appellant does not take public transit as the appellant has social anxiety and mental health involvement in the past. The appellant does not drive and has decreased walking tolerance with a two-wheeled walker.
 - The appellant attends the food bank weekly and medical appointments and all community outings with the scooter.
 - The appellant has Thorax T spine medullar lesion, occasional vertigo, frequent leg and foot pain, neuropathy and neurogenic bowel, and chronic pain.
 - The appellant has a history of anxiety, decreased activity tolerance so requires rest often during the day.
 - The appellant's current equipment is a Shop Rider scooter provided through ministry funding in 2013. The appellant self-fabricated a windshield when he was more physically able and is no longer able to work or complete physical tasks. The appellant has used a donated scooter canopy which the appellant modified to fit the scooter.
 - The appellant has been using a borrowed electric wheelchair as the scooter has been unreliable. The appellant cannot use the power wheelchair to go to the food bank as it is hard to carry groceries and the scooter is more ideal to allow the appellant to complete community tasks.
 - The possible equipment solution is for a scooter to access the community. A replacement 4-wheel scooter is required and accessories of a canopy and a windshield would be further beneficial.
 - Regarding mobility, the appellant is independent to walk short distances only within the apartment building with the use of the two-wheeled walker and the appellant uses the scooter to access the community.
 - The appellant has limited walking tolerance due to weakness, pain in the back and both legs, neuropathy/neuralgia and limited activity tolerance. The appellant is limited

to walk with the two-wheeled walker within the apartment and to access the scooter on the first floor where it is stored.

- The appellant is a heavy user of the scooter for all community mobility.
 - Regarding the justification for the components, the appellant would benefit from a canopy and a windshield for the scooter to allow the appellant to go out during varied weather and terrains to provide safety/coverage.
 - With respect to expected targeted outcomes for the equipment requested, the appellant will continue to be able to access the community in order to carry out instrumental activities of daily living, go to food bank weekly, errands and attend medical and other appointments in varied weather conditions. The goal is to not increase pain as a result of power mobility use and to increase independence.
- 8) Purchase Authorization dated May 14, 2019 for wheelchair transportation to occur on May 15, 2019;
 - 9) Purchase Authorization dated June 11, 2019 for medical transportation travel;
 - 10) Purchase Authorization dated August 26, 2019 for wheelchair taxi transportation;
 - 11) Letter dated October 21, 2019 in which a medical practitioner wrote that the appellant requires a roof and a winter enclosure installed on the motorized scooter as the scooter will be the primary means by which the appellant will be seen for regular follow-up visits. The appellant has a history of immunocompromise which confers increased susceptibility to all types of infections. The appellant requires protection from the elements;
 - 12) Prescription dated October 21, 2019 for a winter enclosure and a roof for the scooter;
 - 13) Letter dated December 9, 2019 to the appellant in which the ministry denied the request for a scooter roof and winter enclosure;
 - 14) Quotation dated January 6, 2020 for an enclosure at a cost of \$212.50 and a canopy for \$233.75, for a total cost of \$446.25 and a handwritten note that "these people supplied my scooter and are great to deal with";
 - 15) Copy of email dated January 8, 2020 with a quote for a windshield at a cost of \$250 and a canopy for a total cost of \$520.99; and,
 - 16) Request for Reconsideration dated January 14, 2020 with attached letter from an advocate dated January 13, 2020.

In the letter with the Request for Reconsideration, the appellant's advocate wrote:

- The appellant's only means of mobility is by the power wheelchair and the mobility scooter. The appellant must use these devices every day to get around, including getting to and from frequent doctor appointments in an adjacent community.
- The appellant is immune-compromised and inclement weather can be detrimental to the appellant's health. The appellant is forced to be out in all types of weather and is in need of proper protection from the elements.
- In speaking with the appellant's physician, the physician was concerned for the appellant's health and feels that these accessories are absolutely necessary for the appellant to be able to transport to and from daily living outings and the risk for severe medical complications is increased without them.

Additional Information

In the Notice of Appeal, the appellant disagreed with the ministry's reconsideration decision and wrote:

- The appellant requires this equipment to protect the appellant from inclement weather.
- The appellant relies on the scooter for all transportation and, being immunocompromised, the appellant risks severe illness when exposed to the elements.

At the hearing, the appellant stated:

- The appellant feels frustrated because the doctor wrote a prescription for the requested items and he needs to travel to another community to see the doctor. The appellant noted that it was raining and that the appellant does “not usually go outside on a day like today.” It will take several days for the appellant to recuperate from the outing.
- The appellant has PTSD [Post Traumatic Stress Disorder].
- The appellant does not consider a windshield and a canopy an “accessory” in an area that has inclement weather all the time. Rather, he sees these items as a necessity. There is rain and cold all the time. These items are essential since people need them to be able to go outside and not get “soaking wet.”
- The appellant has problems with the immune system. Usually when the appellant gets sick the appellant will be bedridden or will end up in the hospital. One time, the appellant felt something coming on when the appellant was out and, by the time the appellant returned home, the appellant’s throat had closed and the appellant woke up in intensive care in hospital. Now whenever the appellant feels anything coming on, the appellant gets to the doctor right away.
- The ministry knows how much money he receives. The appellant has no additional funds to buy the requested items, or the appellant would have done so “long ago.”
- For obtaining the transportation supplement, the appellant needs to plan a month in advance to have time to deal with the ministry. However, when the appellant is sick, the appellant needs to see the doctor immediately. There always seems to be an additional document required by the ministry and it is always about completing all the paperwork and “crossing the t’s and dotting the i’s.”
- The appellant can book an appointment with the doctor “within a day or two.”
- When the appellant needs to see a specialist, there are usually a few months to get the paperwork completed. The ministry requires plenty of lead time.
- The appellant’s vehicle is not reliable.
- The appellant is not sure whether the monthly assistance currently includes \$52 for a transportation supplement as the appellant does not receive a statement with a breakdown of the amount.
- The appellant had never before dealt with the OT who completed the assessment for the scooter and canopy and windshield. When the assessment was complete, the appellant had no further contact with the OT.
- When the ministry approved the new scooter, the appellant was happy and since the OT was no longer available, the appellant did not consider requesting a reconsideration of the decision regarding the canopy and the windshield. The appellant figured the ministry would want new information that was not available to the appellant at the time.
- The appellant has not spoken to a new OT about the request for the canopy and the

windshield.

At the hearing, the appellant's advocate stated:

- They have no new evidence.
- The appellant is immunocompromised and the appellant can easily become sick from being outside in inclement weather.
- The appellant uses the scooter to travel from the appellant's community to the community where the appellant's physician is located. This is still considered local travel.
- There are very few taxis in the appellant's community and even fewer that are wheelchair accessible. Booking HandiDart is not practical for the appellant as the appellant needs to access transportation immediately when sick. Taking public transportation is out of the question because of the appellant's mental health issues.
- The OT wrote in the Assessment of February 2019 that the windshield and the canopy for the scooter would be beneficial. In March 2019, the ministry approved the scooter but denied the request for a windshield and canopy. While the windshield and canopy do not provide mobility, they do impact the appellant's ability to go outside.
- Since the appellant is immunocompromised and has an increased chance of contracting pneumonia, this is definitely a life-threatening situation.

The ministry relied on its reconsideration decision as summarized at the hearing. At the hearing, the ministry clarified that:

- The ministry originally found that the canopy and the windshield are medical equipment that is not described in Schedule C as health supplements; however, these items are both accessories that would be attached to a scooter.
- When the bill for the items is submitted to the ministry from the medical supply company, the canopy and a windshield are referred to as "accessories" to the scooter.
- The request for taxi service can be dealt with by the ministry on an emergency basis and the expectation is that the authorization will be provided within 24 hours. The ministry will call the taxi and make the arrangements for travel on behalf of the appellant.
- The HandiDart service also provides emergency service.
- As a Person With Disabilities (PWD), the appellant is receiving additional funds to cover some of the costs associated with having a disability and also \$52 per month for a transportation allowance.

Admissibility of Additional Information

The panel considered the testimony on behalf of the appellant and the clarifications by the ministry as both relating to the ministry's denial of a supplement to cover the cost of a canopy and a windshield and, therefore, as being reasonably required for a full and fair disclosure of all matters related to the decision under appeal pursuant to Section 22(4) of the *Employment and Assistance Act*.

The advocate's arguments on the appellant's behalf will be addressed in Part F- Reasons for Panel Decision, below.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's decision, which denied the appellant's request for a supplement to cover the cost of a canopy and a windshield as an accessory attached to a scooter as the request did not meet the requirements of Sections 57 or 69 or Schedule C of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Pursuant to Section 62 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), in order to receive general health supplements or medical equipment and devices as set out in Schedule C, the applicant must be a recipient of disability assistance, or be a dependent of a person in receipt of disability assistance in a variety of scenarios.

Section 3(1) of Schedule C of the EAPWDR sets out criteria that must be met for medical equipment and devices, as follows:

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.

Section 3.4 of Schedule C of the EAPWDR sets out additional criteria that must be met for a scooter and an accessory attached to a scooter as follows:

Medical equipment and devices — scooters

- 3.4 (1) In this section, "scooter" does not include a scooter with 2 wheels.
- (2) Subject to subsection (5) of this section, the following items are health supplements for the purposes of section 3 of

this Schedule if all of the requirements set out in subsection (3) of this section are met:

- (a) a scooter;
- (b) an upgraded component of a scooter;
- (c) an accessory attached to a scooter.

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

- (a) an assessment by an occupational therapist or a physical therapist has confirmed that it is unlikely that the person for whom the scooter has been prescribed will have a medical need for a wheelchair during the 5 years following the assessment;
- (b) the total cost of the scooter and any accessories attached to the scooter does not exceed \$3 500 or, if subsection (3.1) applies, \$4 500;
- (c) the minister is satisfied that the item is medically essential to achieve or maintain basic mobility.

Section 57 of the EAPWDR sets out the criteria that must be met for a crisis supplement:

Crisis supplement

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.

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.

(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services. . . .

Section 69 of the EAPWDR sets out the criteria that must be met for persons facing an imminent life-threatening need as follows:

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

69 (1) 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 adjusted net income of any person in the family unit, other than a dependent child, does not exceed the amount set out in section 11 (3) of the Medical and Health Care Services Regulation, and
- (d) the requirements specified in the following provisions of Schedule C, as applicable, are met:
 - (i) paragraph (a) or (f) of section (2) (1);
 - (ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1). . . .

In the reconsideration decision, the ministry wrote that the ministry previously decided on March 6, 2019 to approve the appellant's request for a replacement scooter and to deny the appellant's request for the windshield and the canopy. The ministry wrote that the appellant did not request a reconsideration of the ministry's March 6, 2019 decision regarding the windshield and the canopy. At the hearing, the appellant stated that when the ministry approved the new scooter, the appellant was happy and, since the OT was no longer available, the appellant did not consider requesting a reconsideration of the decision regarding the canopy and the windshield.

While the appellant re-applied for the canopy and the windshield on November 26, 2019 based on the same information in the earlier request, the ministry offered the appellant a reconsideration of the December 9, 2019 denial and the appellant provided additional information at reconsideration, including a letter from an advocate and quotations for the cost of the canopy and the windshield.

Section 3(2) of Schedule C of the EAPWDR- Prescription and Assessment

In the reconsideration decision, the ministry wrote that the appellant's request for a supplement to cover the cost of a canopy and a windshield as an accessory attached to a scooter does not meet all of the applicable criteria of Section 3 of Schedule C of the EAPWDR. The ministry wrote that the requirements in Section 3(2) of Schedule C have not been met as the appellant has not provided both a prescription of a medical practitioner or nurse practitioner and an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device. These two documents were required by the ministry because the ministry was not satisfied that the medical practitioner had provided sufficient information in the prescription and letter dated October 21, 2019 of the medical need for the canopy and the windshield.

The ministry wrote that an assessment from an OT was not provided with the appellant's request for the canopy and windshield made November 26, 2019. The ministry wrote that the

ministry records included an OT assessment dated February 15, 2019 that was submitted in support of the appellant's previous application for a scooter as well as the canopy and windshield and this assessment was conducted almost a year ago. The ministry wrote that the ministry previously determined that the information in the assessment that the canopy and windshield would be "beneficial" for the appellant was not sufficient to confirm there was a medical need for a windshield and a canopy.

At the hearing, the appellant's advocate argued that the appellant's physician provided a prescription dated October 21, 2019 for the items as well as a letter explaining the appellant's need, and the OT had already completed an assessment for the items. The advocate argued that the requirement in Section 3(2) of Schedule C was met as these documents were before the ministry at reconsideration and, together, they confirm the medical need for the canopy and the windshield.

Section 3(2) of Schedule C of the EAPWDR set out that the family unit must provide the ministry one or both of the following, as requested by the ministry: a prescription of a medical practitioner or nurse practitioner for the medical equipment or device and an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device. The ministry requested that the appellant provide both the prescription and the assessment to confirm the medical need for the canopy and the windshield. While the appellant did not provide a copy of the OT's assessment and did not submit a new assessment with the appellant's request for the canopy and windshield on November 26, 2019, a copy of the February 15, 2019 assessment by the OT was available in the ministry's records and this assessment was before the ministry at reconsideration.

In the assessment dated February 15, 2019, the OT wrote that the "accessories of canopy and windshield would be further beneficial" and also wrote that "the appellant attends the food bank weekly and medical appointments and all community outings with the scooter," that the canopy and windshield will allow the appellant "to go out during varied weather and terrains to provide safety/coverage" and the appellant "will continue to be able to access [the appellant's] community in order to carry out [the appellant's] IADL, go to food bank weekly, errands and attend medical and other appointments in varied weather conditions." In the letter dated October 21, 2019, the medical practitioner provided further information to the prescription for the winter enclosure and a roof for the scooter. The medical practitioner wrote that the appellant requires a roof and a winter enclosure as the appellant has a history of immunocompromise which confers increased susceptibility to all types of infections and the appellant requires protection from the elements.

The panel finds that, when the medical practitioner's prescription and supporting letter are considered together with the information in the OT's assessment, the ministry was unreasonable to conclude that these documents did not provide sufficient information to confirm the medical need for the canopy and the windshield, as required in Section 3(2) of Schedule C

of the EAPWDR.

Section 3.4(3)(b) of Schedule C of the EAPWDR- Cost of Scooter and Accessory

In the reconsideration decision, the ministry wrote that Section 3.4(3)(b) sets out that the total cost of the scooter and any accessories attached to the scooter cannot exceed \$3,500. The ministry wrote that funding in the amount of \$3,500 for the scooter was approved by the ministry on March 6, 2019 and, as a result, the ministry has paid the maximum amount authorized for a scooter and accessories. The ministry clarified at the hearing that items such as the windshield and canopy are considered accessories to the scooter as they are regarded as such by the medical equipment suppliers.

At the hearing, the appellant stated that a windshield and a canopy should not be considered an “accessory” to a scooter in an area that has inclement weather all the time. The appellant stated that these items are essential since people need them to be able to go outside and not get “soaking wet,” and should be considered a necessary part of the scooter.

Section 3.4(3)(b) of Schedule C of the EAPWDR sets out that one of the requirements in relation to a scooter and an accessory attached to a scooter is that the total cost of the scooter and any accessories attached to the scooter does not exceed \$3 500 or, if subsection (3.1) applies [need for a bariatric scooter], \$4 500. As there was no evidence of a need for a bariatric scooter, the panel finds that the maximum amount of \$3,500 applies for the “total” cost of the scooter and any accessories attached to the scooter.

Although the appellant argued that the windshield and canopy should not be considered accessories to the scooter, the panel notes that the medical equipment supplier has itemized the scooter and the windshield and the canopy as separate items on the quotations and did not include the windshield and the canopy as part of the features of the scooter. The panel finds as fact that the windshield and the canopy are “accessories” that would be attached to a scooter. The Quotation dated December 6, 2018 for a Shoprider Trailblazer SE indicated a total cost of \$3,500 for the scooter and the appellant did not dispute the cost of the scooter provided to the appellant in March 2019. There were several quotations submitted for the canopy and the windshield, including a total cost of \$550 (December 5, 2018), a total cost of \$446.25 (January 6, 2020), and a total cost of \$520.99 (January 8, 2020).

While the appellant has re-applied for the windshield and the canopy separately from the request for the scooter, with the total cost of the accessories ranging from \$446.25 to \$550, this amount must be added to the cost of the scooter to which they would be attached, or \$3,500, to yield a total cost ranging from \$3,946.25 to \$4,050 for the scooter and the accessories. The panel finds that the ministry reasonably concluded that the cost of the scooter and the requested accessories attached to the scooter exceeds \$3,500 and, therefore, does not meet the requirement in Section 3.4(3)(b) of Schedule C of the EAPWDR.

Section 3.4(3)(c) of Schedule C of the EAPWDR- Medically essential to achieve or maintain basic mobility

In the reconsideration decision, the ministry wrote that the ministry is not satisfied that the windshield and canopy for the scooter are medically essential for the appellant to achieve or maintain basic mobility. The ministry wrote that the windshield and the canopy are intended to facilitate the appellant's use of the scooter during inclement weather and the ministry wrote that there was insufficient information to establish that the appellant requires use of the scooter to access the community in inclement weather as other options are available. The ministry wrote that the appellant has a power wheelchair and has accessed wheelchair taxi transportation in the past to attend medical appointments outside the appellant's community. The ministry wrote that the appellant has the option of registering for the Taxi Saver Program which provides a subsidy toward the cost of taxi rides within the appellant's community. The ministry wrote that the appellant also has a vehicle and the ministry provides a monthly transportation supplement in the amount of \$52 to assist with the costs associated with owning and operating a vehicle. The ministry wrote that crisis supplements have recently been issued to the appellant to cover unexpected expenses associated with car repairs as the appellant reported that the appellant needed a vehicle to get around and the vehicle was the only form of transportation available to the appellant. At the hearing, the ministry stated that HandiDart provides emergency services that would facilitate the appellant's transportation to the physician on short notice.

In the letter with the Request for Reconsideration, and at the hearing, the appellant's advocate argued that the appellant's only means of mobility is by the power wheelchair and the mobility scooter. The advocate stated that the appellant must use these devices every day to get around, including getting to and from frequent doctor appointments in an adjacent community. The advocate argued that while the windshield and canopy do not provide mobility themselves, they do impact the appellant's ability to go outside. The advocate stated that the appellant is immunocompromised and the appellant's physician feels that these accessories are absolutely necessary for the appellant to be able to transport to and from daily living outings and the risk for severe medical complications is increased without them. The appellant stated at the hearing that there is an immediate need to get to the physician when starting to feel sick.

The advocate argued that there are very few taxis in the appellant's community and even fewer that are wheelchair accessible. The appellant stated that the ministry has not been able to provide approval for transportation by taxi within short notice in the past. The advocate argued that booking HandiDart is not practical for the appellant as the appellant needs to access transportation immediately when sick and taking public transportation is out of the question because of the appellant's mental health issues. The appellant stated that the appellant's vehicle is "not reliable."

Section 3.4(3)(c) of Schedule C requires that the ministry is satisfied that the item is medically essential to achieve or maintain basic mobility. The ministry does not dispute that the appellant

is immunocompromised and that the appellant's physician provided information that the appellant has increased susceptibility to all types of infections and requires protection from the elements when mobilizing outdoors. At the hearing, the ministry maintained that the appellant has a number of options available for transportation during inclement weather, including use of the power wheelchair with wheelchair taxi transportation, emergency HandiDart services, and the appellant's own vehicle.

The appellant acknowledged at the hearing that transportation via the power wheelchair and taxi was practical for attending appointments with a specialist as there was sufficient lead time to get the ministry's approval for funding. Although the ministry stated at the hearing that the appellant's request for transportation by taxi for immediate visits with the appellant's physician could be assigned an emergency designation and approval provided within 24 hours, the appellant's experience has been that it has taken several days to receive approval and this is not practical for the appellant's need to access immediate medical attention. The panel notes that the weather can change quickly at times, causing a need for protection from the elements for mobilizing outdoors to arise with very little notice. The ministry stated at the hearing that HandiDart also provides emergency services; however, the advocate stated that public transportation is out of the question for the appellant due to the appellant's mental health issues.

While the appellant argued that the appellant's vehicle is also not an option because it is "unreliable," there was no other information provided on the appeal regarding the condition of the vehicle or the frequency of its use. The ministry provided information that the appellant receives \$52 per month to assist with transportation costs and the appellant recently requested a crisis supplement for unexpected expenses related to car repairs on the basis that this was a vital mode of transportation. The panel finds that if repairs are being made on a vehicle, then it must be a potential mode of transportation.

The panel acknowledges that accessing wheelchair accessible taxi services is more complicated than being able to travel by scooter for outdoor mobility. However, during inclement weather, the taxi services option is available when there is sufficient time to obtain the ministry's approval prior to the appointment and to book a wheelchair accessible vehicle. The appellant's family vehicle is an option to meet more immediate transportation needs. The panel finds as fact that the use of the power wheelchair with taxi services or the power wheelchair with the appellant's family vehicle provide possible options for outdoor mobility during inclement weather. Therefore, the panel finds that the ministry was reasonable to conclude that there was insufficient information to establish that the windshield and canopy for the scooter are medically essential for the appellant to achieve or maintain basic mobility, as required by Section 3.4(3)(c) of Schedule C of the EAPWDR.

Section 69 of the EAPWDR- Life threatening health need

The ministry acknowledged in the reconsideration decision that the appellant is a recipient of

disability assistance and is, therefore, eligible to receive health supplements pursuant to Section 62 of the EAPWDR. The panel finds that the ministry reasonably determined that Section 69 of the EAPWDR is intended to provide a remedy for those persons in the family unit who are otherwise not eligible for the health supplement under the regulation. The panel finds that the ministry reasonably concluded that the appellant's request for a supplement to cover the cost of the canopy and windshield did not meet the eligibility criteria for a life-threatening health need under Section 69 of the EAPWDR.

Section 57 of the EAPWDR- Crisis supplement

In the reconsideration decision, the ministry wrote that Section 57(3) of the EAPWDR states that the ministry may not provide a crisis supplement to obtain a supplement described in Schedule C or for any other health care goods or services. The ministry wrote that the medical equipment is a health care service and is described in Schedule C and, therefore, the appellant is not eligible for a crisis supplement for scooter accessories. At the hearing, the ministry stated that the ministry originally found that the canopy and the windshield are medical equipment that is not described in Schedule C as health supplements; however, at the hearing the ministry agreed that the items are listed in Schedule C under "accessories attached to a scooter." The appellant did not dispute that the windshield and canopy are medical equipment that are health care goods and described in Schedule C of the EAPWDR.

As previously discussed, the panel finds as fact that the windshield and the canopy are "accessories" that would be attached to a scooter, which are health care goods and considered a health supplement described in Schedule C. Therefore, the panel finds that the ministry reasonably determined that the appellant is not eligible for a crisis supplement to cover the cost of the canopy and the windshield, pursuant to Section 57(3) of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a supplement to cover the cost of a canopy and a windshield as an accessory attached to a scooter as the request did not meet the requirements of Sections 57 or 69 or Schedule C of the EAPWDR, was reasonably supported by the evidence. Therefore, the panel confirms the ministry decision and the appellant is not successful in the appeal.

APPEAL NUMBER
2020-00040

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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020-03-02

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-03-02

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020-03-02