

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the reconsideration decision by the Ministry of Social Development and Poverty Reduction (“the ministry”) dated June 5, 2020 that denied the appellant’s request for a supplement to cover the cost of Botox for injection as treatment of the appellant’s overactive bladder condition. The ministry held that injectable Botox is not a general health supplement under Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The ministry also held that the appellant is not eligible to receive the injectable Botox under Section 69 of the EAPWDR as a health supplement for a person facing a direct and imminent life-threatening health need.

**PART D – RELEVANT LEGISLATION**

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

**PART E – SUMMARY OF FACTS**

The evidence before the ministry at reconsideration included the following:

- 1) Letter dated April 16, 2020 in which a social worker (SW) wrote:
  - The appellant has difficulty with urinary urgency and incontinence.
  - The appellant has a difficult time going out into the community and being an active person.
  - The appellant needs to always take pads and extra clothes, and to know where the closest bathroom is. This is very limiting and has resulted in extreme isolation and limits the appellant's quality of life.
  - The appellant has been working with an urologist who has the appellant on medication. The appellant wants to try Botox injections to help with incontinence.
  - The urologist stated that Botox would not be covered under special authority, and the SW believes it is likely because the urinary incontinence is not due to neurological disorders.
  - The appellant is a Person With Disability (PWD) and cannot afford the cost of the Botox, which is \$400.
- 2) Letter dated May 12, 2020 in which a physician specializing in urology wrote:
  - The appellant has confirmed detrusor overactivity on urodynamics. The appellant cannot cover the cost of oral medication and complementary samples have been provided.
  - While oral medications decrease the urge frequency associated with overactive bladder by roughly 20 to 30%, intravesical Botox injections can decrease this by roughly 80%.
  - The effect of Botox is temporary, with average duration of effect roughly 6 to 12 months. There is also potential risk of urinary infection as well as retention.
  - The appellant requires intravesical Botox for refractory bladder overactivity.
- 3) Letter dated May 14, 2020 to the ministry, in which the appellant wrote:
  - The appellant wants to highlight how the overactive bladder issue controls the appellant's life. It makes the appellant rethink everything the appellant needs to do when going out into the community.
  - The appellant needs to constantly know the location of the nearest washroom and how long the appellant will be out, restrict fluid intake, and take an extra set of clothes to change into if the appellant does not make it to the washroom in time.
  - The appellant feels socially isolated and often needs to decline outings in the community due to the unpredictability of the overactive bladder.
  - The appellant has also experienced rashes and skin breakdown, which is painful, due to the overactive bladder.
  - The appellant struggles with anxiety and depression with the issue and is socially isolated and cannot go out as often as liked to spend time with family and friends.
  - There are days that the appellant cannot even get out of bed because of this issue and is trapped in the house to be close to the washroom.
  - The appellant's urologist provides free samples of oral medication as the appellant cannot afford it. Although the appellant has been taking the medication for months, it is not working very well.

- The appellant is financially impacted due to this issue as the appellant spends about \$100 plus per month on undergarments, which chews up a huge portion of the appellant's limited monthly budget. The appellant's laundry cost is increased due to accidents.
  - The appellant has spent countless hours cleaning the appellant's mattress, couch, and bathroom due to not being able to make it to the washroom on time.
  - There are times when the appellant has such a bad accident that the appellant needs to take a shower several times a day, which is humiliating.
- 4) Letter dated May 14, 2020 in which the same SW wrote:
- The appellant has been working with an urologist to control an overactive bladder and is currently on oral medication, but it does not help much at all. The medication is received on a complementary basis from the urologist as the appellant cannot afford it.
  - The oral medication only reduces the urge for frequency by 20 to 30% where the Botox medication would reduce the urge for frequency by 80%.
  - The appellant has difficulty going out into the community due to the unpredictable nature of the overactive bladder issue.
  - From an emotional standpoint, this diagnosis has left the appellant with feelings of depression and anxiety.
  - Botox medication would be used as a preventative measure to prevent any breakdown of the skin and medical problems in the future.
  - Botox could give the appellant's "life back" and reduce depression significantly.
- 5) Letter dated May 15, 2020 in which a mental health counsellor wrote:
- The appellant reports struggling with bladder control concerns. The appellant shared that although the medication relieves some of the concerns, there are still unpredictable bladder leaks and this impacts quality of life and mental health.
  - The appellant said there is no way of knowing when the appellant will be able to control the bladder and therefore often struggles with negative thought and fears connected to having a leak.
  - The appellant reported that due to accidents and embarrassing moments, the appellant has started avoiding leaving home, which is impacting the appellant's mental health.
  - Due to the accumulation of stress caused by lack of bladder control, the appellant is struggling emotionally. The appellant would benefit from Botox as it would alleviate much of the stress as a result of bladder concerns.
- 6) Request for Reconsideration dated May 21, 2020 in which the appellant wrote:
- The appellant is not able to afford Botox medication and is on a limited budget.
  - The Botox would improve the symptoms of the overactive bladder up to 80%.
  - The Botox would improve the appellant's mental and emotional health.
  - The Botox would prevent skin breakdown.
  - The Botox would reduce other costs (laundry, buying a new mattress, buying Depends, etc.)

***Additional Information***

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

- The appellant is on PWD benefits (disability assistance) with limited income that does not fully cover the cost of incontinence products.
- The appellant requires medication to help with bladder control but medication does not help much. The urologist provides the medication as the appellant is unable to afford it.
- The [medical condition] impacts the appellant's quality of life and self esteem.

At the hearing, the appellant stated:

- The appellant feels that the appellant absolutely needs this medication because it would really improve the appellant's life.
- The appellant has an extremely weak bladder and has tried other medications that have not worked.
- The appellant feels that the appellant meets the criteria because of an overactive bladder and it really gets the appellant down when going out into a public place. The appellant needs to prepare, like going out with a baby, and take extra underwear and clothing. This is extremely depressing. Sometimes the appellant changes clothing 5 times in a day.
- The appellant needs the Botox medication for a better quality of life. It would help so much because the appellant would not feel so much like a baby, like changing wet diapers. Sometimes the appellant will not even go out if the appellant is having a day not making it to the bathroom in time.
- The appellant has no control over the appellant's bladder and often uses 5 or 6 adult incontinence undergarments in a day, which cost \$30 per package.
- The appellant does so much laundry that it brings up the hydro bill, which is hard for the appellant to afford on PWD benefits.
- The appellant feels that a human being should not have to live like this. The appellant asks that the panel consider how it feels and what it would be like not to have control of one's bladder.
- It would mean a lot to the appellant to be able to live a normal life. The appellant has family that the appellant would like to visit but gets embarrassed when feeling like a baby.
- The appellant understands that the oral medication the urologist is giving to the appellant costs about \$100 per month and the appellant does not have the funds to cover this.
- The urologist pointed out the health risks to the Botox treatment and the appellant understand these risks. The appellant gets a lot of bladder infections anyway.
- The urologist said that the Botox will relax the muscles so the appellant will not have the same frequency of urgency to go. The appellant has not been able to see the urologist recently because of the Covid19 pandemic.
- The appellant would like the ministry to consider the particular circumstances of the appellant's case and understand how hard it is for the appellant.
- The appellant would have preferred if a representative of the Ministry of Health could have attended the hearing to explain why the appellant is not eligible for the special authority for Botox treatments.

At the hearing, the appellant's advocate, the SW who wrote the letters cited above, stated:

- The appellant has been working hard with the urologist, who has given the appellant oral medication. Before the appellant started the request to the ministry, the SW sent a letter to the urologist in March asking if the Botox could be covered through a special authority

procedure with the Ministry of Health. The urologist wrote back to the SW advising that the appellant would not meet the criteria of a special authority request. Although the SW thought it was because the appellant's urinary incontinence is not due to a neurological disorder, the SW is not sure why the appellant would not qualify for the special authority.

- The SW believes that the requirement with the Ministry of Health is that the urinary incontinence has to be due to a neurological disorder, such as Multiple Sclerosis.
- They may further investigate the special request option through the urologist.
- The legislative basis for the appellant's request from the ministry is Section 2 of Schedule C of the EAPWDR, as a medical supply.
- The appellant has been working with the primary care network and the chronic disease nurses and has been advised to restrict liquid intake.
- The appellant has increased laundry and cleaning as a result of the appellant's condition and has to buy adult incontinence undergarments, which has definitely impacted the appellant's mood and self-esteem. The appellant is working with a counsellor and this is helping the appellant "a little bit."
- The appellant has a limited income and, because of the appellant's condition, will soon need a new bed because of uncontrollable urination at night.
- Botox treatments would allow the appellant to be more functional in society.
- The appellant has had an overactive bladder for many years but it has become worse more recently.
- The risk of skin breakdown occurs when the urine is in contact with the appellant's skin for a prolonged period, either at night or when it takes a while to change.
- The urologist is providing complementary oral medication because the appellant cannot afford the medication, which is not covered through Pharmacare.

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

- The ministry acknowledges the difficulty that the appellant is experiencing from the impacts to the appellant's medical condition.
- The decision by the ministry is straight forward in that any medication prescribed by a doctor is within the authority of the Ministry of Health, through Pharmacare, and not the Ministry of Social Development and Poverty Reduction. A request for special authority for a medication that is not covered is made by the doctor to the Ministry of Health.
- While the ministries try to work together to help a client, there is a clear line of authority between the two ministries and only the Ministry of Health can cover prescribed drugs.
- The Ministry of Social Development and Poverty Reduction provides general supplements that can help with some of the other financial impacts of the appellant's condition, for disposable or reusable supplies, and for such things as a bed cover or a new bed, if the criteria are met.

The panel considered that there was no additional information for which a determination of admissibility was required under Section 22(4)(b) of the *Employment and Assistance Act*.

**PART F – REASONS FOR PANEL DECISION**

The issue under appeal is whether the ministry's decision to deny the appellant's request for a supplement to cover the cost of injectable Botox was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant. Specifically, the issue is whether the ministry reasonably determined that injectable Botox is not a general health supplement under Schedule C of the EAPWDR and that the appellant does not require the remedy under Section 69 of the EAPWDR as a health supplement for a person not otherwise eligible for Schedule C supplements and facing a direct and imminent life-threatening health need.

The relevant legislation is from the EAPWDR:

Pursuant to Section 62 of the EAPWDR, the applicant must be a recipient of disability assistance, or be a dependant of a person in receipt of disability assistance in a variety of scenarios. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that must be met in order to qualify for a health supplement for various items. In this case, the ministry has found that the requirement of Section 62 has been met as the appellant is a recipient of disability assistance.

Schedule C of the EAPWDR:

Section 1 of Schedule C contains relevant definitions.

The remaining sections deal with specific categories of health supplements, with category-specific criteria relating to such matters as exclusions, limits, purpose and replacement and repair. These sections and the categories of supplement covered are listed below:

Section	Category
2	<p data-bbox="272 1356 610 1388">General health supplements</p> <p data-bbox="272 1419 1344 1566">Medical or surgical supplies that are disposable or reusable and 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, <b>not including nutritional supplements, food, vitamins, minerals or prescription medication.</b></p> <p data-bbox="272 1629 1357 1696">Medical or surgical supplies: (i) lancets; (ii) needles and syringes; (iii) ventilator supplies; (iv) tracheostomy supplies.</p> <p data-bbox="272 1728 922 1759">Consumable medical supplies required to thicken food.</p> <p data-bbox="272 1791 1292 1858">The following services: acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, physical therapy.</p> <p data-bbox="272 1890 743 1921">Travel for the purposes of medical care.</p>

2.1	Optical supplements
2.2	Eye examination supplements
3	Medical equipment and devices – general provisions <i>[see below]</i>
3.1	Canes, crutches and walkers
3.2	Wheelchairs
3.3	Wheelchair seating systems
3.4	Scooters
3.5	<p>Bathing and toileting aids:</p> <p>(a) a grab bar in a bathroom;(b) a bath or shower seat;(c) a bath transfer bench with hand held shower;(d) a tub slide; (e) a bath lift; (f) a bed pan or urinal; (g) a raised toilet seat;(h) a toilet safety frame; (i) a floor-to-ceiling pole in a bathroom or bedroom;(j) a portable commode chair; (k) a standing frame; (l) a positioning chair; (m) a transfer aid</p>
3.6	<p>Hospital beds:</p> <p>(a) a hospital bed; (b) an upgraded component of a hospital bed; (c) an accessory attached to a hospital bed; (d) a positioning item on a hospital bed</p>
3.7	Pressure relief mattresses
3.8	Floor or ceiling lift devices
3.9	Breathing devices
3.10	<p>Orthoses:</p> <p>(a) a custom-made or off-the-shelf foot orthotic; (b) custom-made footwear; (c) a permanent modification to footwear; d) off-the-shelf footwear required for the purpose set out in subsection (4.1)(a); (e) off-the-shelf orthopaedic footwear; (f) an ankle brace;(g) an ankle-foot orthosis; (h) a knee-ankle-foot orthosis; (i) a knee brace; (j) a hip brace; (k) an upper extremity brace; (l) a cranial helmet used for the purposes set out in subsection (7); (m) a torso or spine brace; (n) a foot abduction orthosis; (o) a toe orthosis; (p) a walking boot.</p>
3.11	Hearing instruments
3.12	Non-conventional glucose meters
4	Dental supplements
4.1 & 4.2	Crown and bridgework supplement & Denture supplement

5	Emergency dental supplements
6	Diet supplements
7	Monthly nutritional supplement
8	Natal supplement
9	Infant formula
10	Repealed
11	Alternative hearing assistance supplement

Section 69 of the EAPWDR:

**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).

**Section 2(1) of Schedule C of the EAPWDR**

The ministry's position is that the appellant is eligible to receive health supplements under Section 62 of the EAPWDR but the requested injectable Botox is not an eligible item as a medical or surgical supply set out in Section 2(1)(a) of Schedule C of the EAPWDR as Botox does not meet all of the criteria. In the reconsideration decision, the ministry characterized the injectable Botox as "prescription medications for the treatment of urinary incontinence" and wrote that prescription medications are not disposable or reusable medical or surgical supplies. The ministry wrote further that Section 2(1.1) explicitly states that for the purposes of Section 2(1)(a) of Schedule C of the EAPWDR, medical and surgical supplies do not include prescription medications. The ministry emphasized at the hearing that clients of the ministry are covered by Part C Pharmacare, which provides prescription medications; decisions regarding which prescription medications are eligible for coverage are the responsibility of the Ministry of Health.



The appellant's position is that the appellant requires Botox to effectively treat the appellant's overactive bladder, which has many negative impacts to the appellant's quality of life, and the appellant qualifies for a supplement to cover the cost of injectable Botox as a general health supplement under Section 2 of Schedule C of the EAPWDR. In the Request for Reconsideration, the appellant wrote that the appellant is on a limited budget and is not able to afford Botox "medication." The appellant wrote that the Botox medication would improve the symptoms of the overactive bladder up to 80%, improve the appellant's mental and emotional health, prevent skin breakdown, and reduce the appellant's other costs (laundry, buying a new mattress, buying adult incontinence undergarments, etc.) At the hearing, the appellant and the SW stated that the appellant is currently taking an oral medication received on a complementary basis from the urologist as this particular medication for an overactive bladder is not covered by Pharmacare and the appellant cannot afford to pay the approximate \$100 per month cost from the appellant's limited budget. The SW pointed out that the urologist wrote in the letter dated May 12, 2020 that while oral medications decrease the urge frequency associated with overactive bladder by roughly 20 to 30%, intravesical Botox injections can decrease this by roughly 80%. The SW wrote in the letter dated April 16, 2020 that the urologist stated that Botox would not be covered under special authority through the Ministry of Health, and the SW believes it is likely because the appellant's urinary incontinence is not due to neurological disorders, which the SW understands to be the requirement.

The appellant explained that the appellant has difficulty going out into the community due to the unpredictable nature of the overactive bladder issue. At the hearing, the appellant stated that the appellant needs to prepare to go out into a public place, locating the nearest washroom and taking extra underwear and clothing, and this is "extremely depressing." The SW stated that the appellant has been seeing a counsellor who wrote in the May 15, 2020 letter that, due to the accumulation of stress caused by lack of bladder control, the appellant is struggling emotionally. The appellant stated at the hearing that the appellant needs the Botox medication for a better quality of life as it will allow the appellant to go out into public and to visit family without the embarrassment of having accidents and being "like a baby."

### ***Panel findings***

Section 2(1)(a) of Schedule C of the EAPWDR provides health supplements for medical or surgical supplies that are "either disposable or reusable" if the supplies are required for a number of listed purposes, including incontinence. The supplies specifically include lancets, needles and syringes, ventilator and tracheostomy supplies, and the supplies must meet other criteria. The panel finds that the requested Botox may be considered "supplies" in the broadest sense, as in: "Does BC have adequate supplies of flu vaccine for the coming season?" The requested Botox would also be considered a *medical* supply (medical ~ related to the treatment of illness or injury [Cambridge]). However, while the intravesical Botox is required for the purpose of treating "incontinence," included as one of the listed purposes in Section 2(1)(a)(i)(D) of Schedule C, the panel finds that the ministry reasonably determined that Botox for injection into the bladder is neither a "disposable" nor "reusable" medical or surgical supply, as required by Section 2(1)(a) as once it has been injected it cannot be reused and, once used, it cannot be disposed. The panel therefore finds that the ministry reasonably determined that the requested Botox is not an authorized health supplement under section 2(1)(a) of Schedule C of the EAPWDR.

In the reconsideration decision, the ministry also wrote that Section 2(1.1) explicitly states that, for the purposes of Section 2(1)(a) of Schedule C of the EAPWDR, medical and surgical supplies do not include prescription medications. The ministry characterized the requested injectable Botox as “prescription medications for the treatment of urinary incontinence,” and both the appellant and the SW referred to the Botox injections as “medication” and did not dispute the ministry’s description of the requested item. In the letter dated May 12, 2020, the urologist wrote that the appellant requires intravesical Botox for refractory bladder overactivity and predicted a higher success rate of Botox injections in comparison with the appellant’s current oral medication, indicating that the urologist considers the injectable Botox as medication. The panel finds that the urologist’s letter prescribes, or authorizes, a particular type of “intravesical Botox” to be administered by a medical professional for the therapeutic treatment of the appellant’s urge incontinence and overactive bladder. Further, the SW stated that the urologist considered the special authority requirements for the coverage of Botox as a medication through the Limited Coverage Drug Program under Pharmacare and advised that the intravesical Botox would not be covered in the appellant’s case. While the Botox may be considered a “prescription medication,” and therefore excluded as a health supplement under Section 2(1)(a) of Schedule C, this may not be relevant as it is difficult to conceive of a medication that is either disposable or reusable.

As the ministry noted at the hearing, under provincial legislation there is a clear division of ministerial responsibility regarding health care assistance for recipients of income assistance or disability assistance. Regarding prescription medications, under the *Pharmaceutical Services Act*, the Minister of Health is responsible for BC Pharmacare. Where a drug is not included in the formulary, there is a process whereby a special authority request may be submitted to the Ministry of Health on the patient’s behalf under that ministry’s Limited Coverage Drug Program.

In the appellant’s case, the urologist advised the SW that the appellant would not meet the criteria for a special authority request to the Ministry of Health for intravesical Botox, although the SW was not sure why the urologist believed the appellant would not meet the criteria. The SW understood that although Botox injections are available through the special authority process, the Botox must be required for a medical condition that includes a neurological component. The appellant stated at the hearing that they had not been able to meet with the urologist recently due to the Covid19 pandemic and the SW stated that, depending on the results of the appeal, they may investigate the special authority request further. The panel finds that the ministry’s decision, which concluded that intravesical Botox does not meet all of the legislative criteria as set out in Section 2(1)(a) of Schedule C of the EAPWDR and, as a prescribed medication, is excluded as a medical and surgical supply under Section 2(1.1), was reasonable.

### **Section 2(1)(c) of Schedule C of the EAPWDR**

In the reconsideration decision, the ministry wrote that injectable Botox is not a therapy set out in Section 2(1)(c) of Schedule C of the EAPWDR, is not administered by one of the prescribed professionals described, and does not meet the other requirements for therapy in Section 2. The appellant did not argue that Botox is included as a therapy under Section 2(1)(c).

Section 2(1)(c) of Schedule C of the EAPWDR provides for listed services, specifically acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, and physical

therapy, to be provided by the respective qualified professional, and the panel finds that the ministry reasonably concluded that injectable Botox is not a listed therapy.

***Section 3 and 3.1 through 3.12 of Schedule C of the EAPWDR***

The ministry's position is that injectable Botox is not an eligible item as medical equipment or devices specifically set out in 3.1 through 3.12 of Schedule C of the EAPWDR. The appellant does not argue that Botox is listed as an eligible item of medical equipment.

Section 3(1) of Schedule C of the EAPWDR stipulates that the medical equipment and devices described in Sections 3.1 to 3.12 of Schedule C are the health supplements that may be provided by the ministry. The panel finds that the ministry reasonably determined that the requested Botox is not specifically set out in Section 3.1 through 3.12 of Schedule C of the EAPWDR as injectable Botox is not a type of equipment or device, and is not listed as such in these sections (see summary of Schedule C above). Section 3 stipulates that only the items described in Section 3.1 to 3.12 are the health supplements that may be provided, and the Section does not allow for items other than those specifically listed. The panel finds that the ministry reasonably determined that Botox is not included in Sections 3.1 to 3.12 of Schedule C of the EAPWDR.

***Remaining Sections of Schedule C***

The ministry's position is that the appellant's request for a supplement to cover the cost of injectable Botox does not meet the criteria of the other sections of Schedule C of the EAPWDR, including Sections 2.1, 2.2, 4, 4.1, 5, 6, 7, 8 and 9, since Botox is not any of the items covered, namely: optical supplements; eye examination supplements; a dental supplement; a crown and bridgework supplement; emergency dental supplements; diet supplements; monthly nutritional supplements; natal supplements; or infant formula. The appellant does not dispute that the requested Botox does not fall within any of these other sections of Schedule C. The panel finds that the ministry's decision, which concluded that the injectable Botox is not an item listed in the other sections of Schedule C of the EAPWDR, was reasonable.

***Section 69 of the EAPWDR- Life threatening health need***

In the reconsideration decision, the ministry acknowledged that the appellant is a recipient of disability assistance and is eligible to receive health supplements pursuant to Section 62 of the EAPWDR and, therefore, does not require the remedy provided in Section 69. The ministry wrote further that information has not been provided to demonstrate that the requirements of Section 69(d) are met as injectable Botox is not set out under Schedule C, Section 2(1)(a) [medical supplies] or Section 2(1)(f) [medical transportation] or in Sections 3 to 3.12.

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 health supplements under the regulation. As the appellant is a recipient of disability assistance, the panel finds that the ministry reasonably determined that the appellant does not require the remedy under Section 69. The panel also finds that the ministry reasonably determined that the requirements of Section 69(d) are not met as injectable Botox is not set out under Schedule C, Section 2(1)(a) as medical or surgical supplies or under Section 2(1)(f) as a mode of medical transportation, or as medical equipment or devices under Sections 3 to 3.12, as previously detailed. Therefore, the panel finds that the ministry's decision, which concluded

that all of the criteria in Section 69 of the EAPWDR are not met, was reasonable.

***Conclusion***

Based on a review of the evidence and applicable legislation, the panel finds that the ministry's decision to deny the request for a supplement to cover the cost of injectable Botox as not meeting the legislated criteria of Section 69 of the EAPWDR, or Sections 2, 2.1, 2.2, Sections 3, 3.1 to 3.12, 4, 4.1, 5, 6, 7, 8, and 9 of Schedule C of the EAPWDR, was a reasonable application of the applicable enactment in the circumstances of the appellant. The panel therefore confirms the ministry decision, and the appellant is not successful on appeal.

APPEAL NUMBER  
2020-00163

**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)  
2020-07-08

PRINT NAME  
Richard Roberts

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020-07-08

PRINT NAME  
Inge Morrissey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)  
2020-07-08