APPEAL NUMBER
2020-00249

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision which denied the appellant's request for a Monthly Nutritional Supplement (MNS) for nutritional items because the request for fails meet the eligibility criteria under Employment and Assistance for Persons with Disabilities regulation, sections 67(1)(c) and (d).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act Regulation (EAPWDR) Section (1.1) (c) and (d).
Employment and Assistance for Persons with Disabilities Act Regulation (EAPWDR) Schedule C, Section 7.

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PART E – SUMMARY OF FACTS

Evidence before the ministry at reconsideration consisted of the following:

- The appellant is a sole recipient of disability assistance, not resident in a special care facility and is in receipt of a diet supplement (approved in the August 11, 2020 ministry decision) and MNS for vitamin/mineral supplementation.
- On July 29, 2020, the ministry received the appellant's MNS supplement application requesting a vitamin and mineral supplement as well as the additional nutritional item supplement. The MNS application was completed by a medical practitioner and provides the following diagnosis and descriptions for this severe medical condition:
    - Autoimmune hepatitis – ongoing elevated liver enzymes/failure.
    - Chronic pain/fatigue – hepatologist requested patient on low salt/high protein diet – on immune suppressant
    - Depression
    - CRUSH injury to the left leg – significant muscle atrophy.
- The MNS application requesting Vitamin or Mineral Supplementation further contained the following:
    - Is the applicant being treated for a chronic, progressive deterioration of health: Autoimmune hepatitis causing progressive deterioration of health on prednisone and azathioprine to suppress immune system.
    - Does the applicant display two or more of the listed systems:
        - Malnutrition - poor nutritional status due to loss of appetite and hepatitis.
        - Significant Muscle Loss - muscle atrophy prednisone
        - Moderate to severe immune suppression - Yes, to Azathioprine and prednisone
        - Significant deterioration of a vital organ- Yes, severe liver failure secondary to autoimmune hepatitis.
    - Vitamin or mineral supplementation needed: Nutritional supplements – Multivitamin daily and Boost three times daily X 1 year.
    - How will vitamin or mineral supplementation alleviate specific symptoms identified - Will decrease malnutrition, muscle atrophy and proper nutritional status will improve immune function and muscle.
    - How will items prevent imminent danger to the applicant's life - Liver failure and autoimmune hepatitis does pose an imminent danger to life. And following the recommended high protein diet will improve outcome. Muscle wasting and malnutrition will increase frailty and risk of falls which also pose an imminent threat to life.
- The MNS application requesting Nutritional Items further contained:
    - Additional nutritional items required - Boost TID X 1 year.
    - Does applicant have medical condition that results in the inability to absorb sufficient calories to satisfy daily requirements through regular dietary intake - Autoimmune hepatitis and chronic prednisone leading to muscle atrophy and malnutrition. Due to this applicant does not take sufficient intake of protein.
    - How nutritional items will alleviate symptoms specified and provide caloric supplementation to regular diet - Will improve nutritional status, prevent encephalopathy, prevent muscle atrophy.
    - How will nutritional items prevent imminent danger to life - Prevent development of hepatic encephalopathy, muscle atrophy leading to fall.
- On August 11, 2020, the ministry advised the appellant of its decision. The ministry approved the request for vitamin/mineral supplementation but denied the request for MNS for nutritional items. At the time of the decision, the appellant was already in receipt of the diet supplement.
- On September 10, 2020, the ministry received the request for reconsideration.

Request for Reconsideration

The appellant signed the request for reconsideration on October 6, 2020.

Notice of Appeal

On, October 22, 2020, the appellant signed a Notice of Appeal in which the following reasons were stated:
"I have been sick to my stomach most days, making it hard to keep my medication down. Food bank does not supply fresh vegetables or proteins that I need on my diet. Also boost drinks I received in hospital might help."

Appellant Submissions
On November 3, 2020, the appellant signed a Release of Information form which designated an advocate to attend the hearings. On November 12, 2020, the appellant signed an Appeal Adjournment Request citing the need to meet with the advocate. The appeal (#2) was subsequently scheduled for December 3, 2020. On November 30, 2020, the appellant signed an Appeal Adjournment Request citing a need for the advocate to prepare and obtain documents for the hearing. On December 1, 2020, the appellant signed a release of Information form designating an additional advocate. The appeal (#3) was subsequently scheduled for December 15, 2020.
On December 10, 2020, a 7 page submission was received from the advocate (lawyer) designated by the appellant which consisted of a prescription note dated December 10, 2020 from a medical practitioner, the advocate submission in support of the appellant's appeal and an appendix consisting of the nutrition facts relative to the nutrition supplement Boost taken from the manufacturer's web site.

- The medical practitioner's note as extracted from the submission is as follows:

  NON-DRUG Rx – NOTE FOR SUPPLEMENTS
  Details:
  This pt was on high doses prednisone and gained significant weight secondary to medications. [Appellant] is no (*sic*) losing weight – 40 pounds – including muscle loss which impairs […] ability to strength and recover from […] sever (*sic*) illness. Boost would help nutritionally as well as from protein perspective.

  This caloric supplementation is also due to ongoing side effects of low oral intake due to medicament side effects.
  Start Date: 08-Dec-2020

  The panel notes that the advocates submission acknowledges that the note was not authored by the medical practitioner who prepared the MNS application as that medical practitioner was not available. The advocate asserts that the two medical practitioners work together and both have seen the appellant.

- The advocate's written submission identifies the issue in the appeal as being whether the appellant's request in the MNS complies with the requirements listed in EAPWDR Section 67 (1.1), sub-section (c) and (d), which are the elements of the reconsideration decision the ministry has highlighted as the basis for declining the request. The advocate's submission offers as evidence to support its conclusions the MNS application itself and the reconsideration decision. The submission notes that the medical practitioner identifies Boost as the nutritional item required by the appellant and refers to the appended nutritional facts for Boost which is a nutritional drink which contains 240 calories, 10 grams of protein and numerous vitamins and minerals for a standard serving. The advocate reviews the contents of the MNS and contrasts this with the reconsideration decision. The submission also offers new evidence in the form of the prescription note from a medical practitioner which the advocate states is not the medical practitioner that completed the MNS application as that medical practitioner was not available. This note has been extracted above and the advocate suggests this note is required for a full and fair disclosure of all facts relevant to the matter.
  The conclusion of the advocate is:
  "The Reconsideration Decision should be rescinded because:
  1. It is not reasonably supported by the evidence. Findings not supported by the evidence include:
     a. The finding that the appellant is overweight, despite evidence that the medical practitioner wants the appellant to increase caloric intake by 720 calories per day.
     b. The finding that Boost will not alleviate the symptoms of malnutrition, muscle mass loss, and deterioration of the appellant's liver, despite the doctor's clear explanation about how it will address those symptoms.
  2. The Reconsideration Decision applies section 7 of Schedule C of the EAPDR unreasonably, by requiring the doctor to provide evidence of the appellant's need for caloric supplementation, whereas section 7 only requires evidence of a need for "additional nutritional items that are part of a caloric supplementation to a regular dietary intake". Boost is a nutritional item and it is clearly part of a caloric supplementation to the

appellant's regular dietary intake: it would add 720 calories per day. It not reasonable to interpret section 7 of Schedule C in a way that excludes Boost."

- The nutrition label for Boost as copied from the manufacturer's web site contains that products nutritional attributes as follows (per serving size of 1 bottle or 237ml):

Calories	240
Total Fat 4g	5%
Saturated Fat 1g	5%
Trans Fat 0g	
Cholesterol 10mg	3%
Sodium 150mg	7%
Total Carbohydrate 41g	12%
Dietary Fiber 1g	4%
Total Sugars 20g	
Includes 20g Added Sugars	40%
Protein 10g	20%

Admissibility

The panel notes that the Notice of Appeal and the advocate's written submission were both issued subsequent to the date of the reconsideration decision. With the exception of the Boost nutritional label and the medical practitioners prescription note, the panel finds that the information contained therein is not considered to be new evidence and does not require an admissibility determination under section 22(4) of the Employment and Assistance Act. The panel notes that the Boost label and medical practitioner's prescription note both contain elements which are considered new evidence which was not available to the ministry at the reconsideration decision date. As allowed by section 22(4) of the Employment and Assistance Act, this information is relevant to the issue at hand and should be included for a full and fair hearing. The panel considers this information to be admissible.

Hearing

The panel conducted a teleconference hearing on December 15, 2020. Attending the hearing were the panel, the ministry, the appellant and the advocate

At the hearing, the appellant stated that the seriousness of the medical conditions being faced causes concern that the ministry was denying nutritional supplements that were critical to health. The appellant noted that Boost was given while in hospital and cannot afford it without the supplement. The advocate reviewed the written submission dated December 10, 2020 and stated the following main points:

- The reconsideration decision should be rescinded because it was not reasonably supported by the evidence and was not a reasonable application of the EAPWDR in the appellant's circumstances. The advocate reviewed the arguments in the written submission in favor of that view.
- The advocate introduced new evidence in the form of the medical practitioner's prescription note which, in the advocate's view clearly established that Boost is required as a caloric supplementation because of a low caloric intake and that this satisfies the requirements of EAPWDR section 67 (1.) (c) and (d) and Schedule C, section 7. Nutritional supplements are a common treatment of the appellant's condition and Boost is the prescribed supplement.

- The advocate reviewed the MNS and prescription note to state that the requirements of (d) is satisfied as well. The MNS describes how the nutritional items will prevent imminent danger to life by noting that Boost will prevent development of hepatic encephalopathy and muscle atrophy leading to a fall. The appellant is suffering from liver failure (of which hepatic encephalopathy is a symptom), clearly a life threatening condition.

The ministry advised they were standing on the information provided on the record.

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PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry reconsideration decision, which denied the appellant's request for a Monthly Nutritional Supplement (MNS) for additional nutritional items because the request for nutritional supplements fails meet the eligibility criteria under Employment and Assistance for Persons with Disabilities regulation, sections 67(1)(c) and (d) was reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

Ministry Position

The ministry in its reconsideration decision notes that:

- A MNS may be provided to a person in a family unit who has Persons with Disability status who has a severe medical condition causing a chronic, progressive deterioration of health with symptoms of wasting. This supplement is intended to prevent imminent danger to the person's life by providing essential, specified items to supplement regular nutritional needs.
- The supplement may not be provided if the person is receiving another nutrition-related supplement, or if the person is residing in a special care facility, unless the person is in an alcohol or drug treatment centre.
- EAPWDR, section 67(1.1) sets out the eligibility criteria for the MNS that may be provided in accordance with EAPWDR, Schedule C, section 7 and must be confirmed by a medical practitioner, nurse practitioner or dietician. Section 7 outlines the additional eligibility criteria for nutritional items and the limits to the amounts the ministry may provide for MNS items. If a person is found eligible for MNS for nutritional items, that portion of the MNS replaces a diet supplement.
- The reconsideration decision agrees the appellant meets the eligibility criteria set out in EAPWDR, section 67(1.1) (a) and is being treated by a medical practitioner for a chronic, progressive deterioration of health.
- The reconsideration decision agrees the appellant meets the eligibility requirements set out in EAPWDR, section 67(1.1) ((b). The appellant as a direct result of the chronic, progressive deterioration of health is displaying at least 2 symptoms listed. Namely, the reconsideration found the appellant to be displaying the symptoms of malnutrition, significant muscle mass loss, moderate to severe immune suppression and significant deterioration of a vital organ.
- In respect of vitamin/mineral supplementation, the reconsideration decision agrees the appellant meets the eligibility requirements set out in EAPWDR, section 67(1.1) (c) and (d). The appellant requires vitamin/mineral supplementation to alleviate a symptom in section EAPWDR 67(1.1) (b) and prevent an imminent danger to life.
- In respect of nutritional items, the reconsideration decision does not agree the appellant requires nutritional items as part of a caloric supplementation to a regular dietary intake to alleviate symptoms set out in EAPWDR, section 67(1.1) (b) due to a progressive deterioration of health and to prevent imminent danger to life as set out in the legislation. In the review of the information submitted by the medical practitioner, the reconsideration decision notes the adjudicator for the initial ministry decision focuses on the lack of any evidence that there is a demonstrated requirement for caloric supplementation to a regular dietary intake:
    - The medical practitioner prescribes Boost three times per day but does not indicate this is required in addition to a regular dietary intake.
    - The appellant's current diet is not addressed other than that the appellant has poor appetite due to hepatitis and does not consume enough protein.
    - There is no confirmation the appellant is consuming a full dietary intake and that, in addition to this, extra calories will be required on an ongoing basis.
    - The prescriber requests the supplement for only one year, which does not indicate an ongoing need.
- The ministry is not satisfied the information in the MNS application confirms that the appellant requires additional nutritional; items as part of a caloric supplementation to a regular dietary intake to prevent imminent danger to life:
    - The appellant is displaying symptoms of wasting however there are no reports of significant weight loss, which would indicate a need for caloric supplementation in addition to a regular dietary intake. It is noted the appellant's BMI is indicative of an overweight individual.
    - The medical practitioner reports the appellant is experiencing significant muscle mass loss and that the appellant's autoimmune hepatitis and chronic prednisone lead to muscle atrophy and malnutrition which means there is insufficient intake of protein. However the report also indicates

the appellant has a reduced appetite due to hepatitis. While the ministry acknowledges Boost would provide additional protein, the information in the application does not support that Boost is required in the form of caloric supplementation to alleviate one of the listed symptoms.
    - As it has not been demonstrated that the appellant requires additional nutritional items for caloric supplementation, in addition to regular dietary intake, it cannot be established that failure to provide additional nutritional items in the form of caloric supplementation will result in an imminent danger to life.
- The ministry determines the information provided does not establish that a medical practitioner has confirmed that the appellant requires additional nutritional items that are part of a caloric supplementation to a regular dietary intake for the purpose of alleviating a symptom referred to in paragraph (b) of the application; and that failure to obtain the items requested would result in an imminent danger to life. The eligibility requirements set out in EAPWDR, sections 67(1.1) (c) and (d) have not been met.

Appellant Position

The appellant position as contained in the advocate's written submission argues that it appears the MNS was denied because the medical practitioner did not explicitly confirm the appellant needs Boost as an additional nutritional item that is part of a caloric supplementation to a regular dietary intake. However, the advocate points to the fact that a standard serving of Boost contains 10 grams of protein and 240 calories. The advocate also notes that the medical practitioner prescribes that the appellant increase caloric intake by 720 calories per day, and it is therefore clear that Boost is part of a caloric supplementation to a regular dietary intake.

The written submission argues that the reconsideration decision finding that the appellant is overweight is not supported by the evidence. The reconsideration decision asserts that the appellant has a BMI of 30.4 Kg which is "considered overweight" without further information about BMI or how it is calculated. This represents "a troubling and unreasonable assumption that the appellant's height and weight on their own reveal more about health than the rest of the information provided by the doctor". The medical practitioner for the MNS states the appellant needs more protein and implies that the appellant should consume 720 more calories every day. The medical practitioner who issued the prescription note confirms the appellant needs to increase caloric intake. Further, the reconsideration decision acknowledges that "significant weight loss……. would indicate a need for caloric supplementation".

The advocate concludes that the reconsideration decision should be rescinded:

- Because it is not reasonably supported by the evidence. Findings not supported by the evidence includes that the appellant is overweight despite evidence that the medical practitioner in the MNS indicating an increase in caloric intake by 720 calories per day. Further, the finding that Boost will not alleviate the symptoms of malnutrition, muscle mass loss and deterioration of the appellant's liver, despite the medical practitioner's clear explanation about how it will address those symptoms.
- The reconsideration decision applies section 7 of Schedule C of the EAPWDR unreasonably by requiring the medical practitioner to provide evidence of the appellant's need for caloric supplementation, whereas section 7 only requires evidence of a need for "additional nutritional items that are part of a caloric supplementation to a regular dietary intake". Boost is a nutritional item that would add 720 calories per day. It is not reasonable to interpret section 7 of Schedule C in a way that excludes Boost.

Panel Decision

The panel agrees with the ministry reconsideration decision framework under which the request for MNS is considered. EAPWDR section 67 (1) authorizes the ministry to provide a nutritional supplement that is in accordance with EAPWDR, Schedule C, section 7 (monthly nutritional supplement) to or for a family unit in receipt of disability assistance and is a person with disabilities but not designated as a person under special care (EAPWDR, Schedule C, section 8(22)). This authority is dependant upon the ministry being satisfied that, based on the information contained in the form specified, meets the requirements set out in EAPWDR, section (1.1) (a) to (d), in addition to that person not receiving any other nutrition supplements and the family unit not having sufficient financial resources to pay the cost. The legislation requires under section (1.1) that a medical practitioner, nurse practitioner or dietician confirm all of the following:

- (a) The person is being treated by the medical practitioner (in the case of the appellant) for a chronic, progressive deterioration of health on account of a severe medical condition. The reconsideration decision's review of the medical practitioner report agrees with the determination and the panel finds that the information clearly supports this determination.

- (b) As a direct result of the chronic progressive deterioration of health, the person displays two or more of the symptoms listed therein (malnutrition, underweight status, significant weight loss, significant muscle mass loss, significant neurological degeneration, significant deterioration of a vital organ, moderate to severe immune suppression). The reconsideration decision finds this to be in evidence and the panel concurs that the report clearly contains two or more of these.
- (c) For the purpose of alleviating a symptom referred to in (b), the person requires one or more of the items set out in section 7 of schedule C and specified in the request. The reconsideration decision here agrees that (c) is satisfied with respect to the request for vitamins and minerals.
  However, the reconsideration decision has denied the appellant's request for nutritional items. The panel notes that the legislation (EAPWDR, section 7(a) and (c)), sets out the items that may be required to alleviate the symptoms identified under 67.1 (c). These include:
  (a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to $165 each month;
  (b) repealed and;
  (c) for vitamins and minerals, up to $40 each month.

  In the reconsideration decision the ministry offered a number of arguments for the decision that the MNS fails to satisfy EAPWDR section 67 (1.1):
  - The ministry found that the MNS lacks any reference to a normal dietary intake so that the need for a nutritional supplement cannot be assessed. The appellant's advocate has argued that it is unreasonable for the ministry to require evidence of a need for caloric supplementation and that the medical practitioner's prescriptions should be enough. The advocate goes on to argue that a regular dietary intake is an individual thing and that when a doctor makes a prescription for a nutritional supplement the patient's dietary intake is implicit in this determination that a specific nutritional item is required. The panel is in agreement with this view and based on the evidence here of the prescription for Boost of two medical practitioners, it is reasonable to expect that these medical practitioners have made an assessment of the appellant's dietary intake in calling for a specific nutritional supplement. Boost is a nutrition drink and a standard serving contains 240 calories, 10 grams of protein and numerous vitamins and minerals. In prescribing Boost, the panel agrees that the medical practitioners have made an assessment of the appellant's regular dietary intake and determined that caloric supplementation in the form of the liquid form of the carbohydrate, protein and mineral content in Boost. The panel notes that the prescription note from the second medical practitioner refers to "Boost would help nutritionally as well as from protein perspective", and "this caloric supplementation is also due to ongoing side effects of lower oral intake due to medicament side effects". The panel views this information as confirmation that the need for a nutritional supplement has been considered and is adequately described. The panel concurs with the advocate's position that this assessment is implicit in the doctor's indication that Boost is required as a caloric supplement as part of the appellant's regular dietary intake. Also implicit is the form and absorbability of Boost in relation to the appellant's medical condition
  - The ministry has relied upon an assumption that the appellant is overweight and that it has not been demonstrated that Boost is required in the form of caloric supplementation to alleviate a symptom. The panel concurs with the advocate who suggests that the assumption of overweight status based solely on BMI is unwise and that the medical practitioners have specifically recommended Boost as a caloric supplementation to the appellant's diet. As described on the prescription note, the appellant had gained weight as a reaction to prednisone but has recently lost over 40 pounds. In the panel's view, weight is not a good measure of health or nutrition. Having an underweight status is not a requisite for caloric supplementation.
  - The ministry refers to and relies on the adjudicator's views at intake. The adjudicator expresses the view that: "The prescriber indicates the applicant needs to consume Boost three times per day but does not indicate this is required in addition to regular dietary intake. The applicant has poor appetite due to hepatitis and does not consume enough protein. The applicant's current diet is not addressed otherwise. It is not confirmed the applicant is consuming a full dietary intake, and that in addition to this, extra calories will be required on an ongoing basis. The prescriber requests the supplement only for one year, which does not indicate an ongoing need. For these reasons, nutritional supplementation is not approved". The advocate responded by introducing the Boost nutrition label which confirms that as a prescribed item that contains substantial calories that the medical practitioner has prescribed a

caloric supplement. As noted above the panel agrees with the advocate that the question of a regular dietary intake can reasonably be considered as implicit in the prescription. In the panel's view the question of the time frame involved in the prescription does not necessarily speak to a lack of ongoing need but perhaps suggests a need for reassessment in the future as would seem to be the case in most prescriptions.

  - The reconsideration decision acknowledges Boost would provide extra protein and nutrition, however the information in the application does not support that Boost is required in the form of caloric supplementation. The panel notes that in the MNS, the medical practitioner has explicitly prescribed Boost, which contains a substantial caloric supplementation to alleviate the symptoms and "will improve nutritional status, prevent encephalopathy, prevent muscle atrophy". The prescription note also prescribes Boost, noting that, "this caloric supplementation is also due to ongoing side effects of lower oral intake due to medicament side effects"

- (d) Failure to obtain the items referred to in paragraph (c) will result in imminent danger to the person's life. With respect to the requirements of (d) the reconsideration decision does not specifically address them. The panel notes that the ministry considers (c) and (d) to be satisfied for the request for vitamin or mineral supplementation and the panel has found that (c) is satisfied for nutritional items. Therefore it is reasonable for the panel to consider that (d) applies in the same manner to nutritional items, particularly as Boost is prescribed for both and both involve the same medical conditions which in the case of vitamins and minerals was considered as satisfying the requirement of (d). The panel notes that, in addition, the medical practitioner does indicate that the prescribed items will "prevent development of hepatic encephalopathy, muscle atrophy, leading to fall" which contain life threatening implications.

In summary, the panel's finding is that based on the new evidence contained in the advocate's review and the medical practitioner's prescription note:

- It is clear that the medical practitioner's have prescribed, as required by EAPWDR section 67(1.1) (c) and (d), for the purpose of alleviating a symptom referred to in paragraph (b), the appellant requires the items set out in Schedule C, section 7 and specified in the request. Specifically, the medical practitioners have prescribed Boost as a caloric supplement to a regular dietary intake.
- It is clear that failure to obtain the items referred to in paragraph (c) will result in imminent death to the appellant, as required by (d). The appellant suffers from liver failure (apart from other things due to her work injury) and the medical practitioners have prescribed Boost as a nutritional supplement to treat the life threatening symptoms. The panel notes the reconsideration decision does not address this but that the decision agrees with that determination for the application for minerals and vitamins. To take a contrary view for the application for a nutritional supplement given the nature of the appellant's circumstances would be unreasonable.

Based on it's analysis, the panel considers the ministry to have been unreasonable in determining the appellant's MNS does not satisfy the requirements of EAPWDR, section 67(1). The panel finds that the legislated provisions under EAPWDR, section (1.1) (c) and (d) are reasonably satisfied for the MNS request in respect of vitamins and minerals as well as additional nutritional items.

Conclusion

The panel rescinds the ministry reconsideration decision as it was not a reasonable application of the legislation in the appellant's circumstances. The appellant is successful upon appeal.

Employment and Assistance for Persons with Disabilities Regulations

Nutritional supplement
67(1) The minister may provide a nutritional supplement in accordance with section 7 [monthly nutritional supplement] of Schedule C to or for a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the family unit who:
(a) is a person with disabilities, and,
(b) is not described in section 8 (1) [people receiving special care] of Schedule A, unless the person is in an alcohol or drug treatment centre as described in section 8 (2) of Schedule A, if the minister is satisfied that;
(c) based on the information contained in the form required under subsection (1.1), the requirements set out in subsection (1.1) (a) to (d) are met in respect of the person with disabilities,
(d) the person is not receiving another nutrition-related supplement,
(e) Repealed.
(f) the person complies with any requirement of the minister under subsection (2), and (g) the person's family unit does not have any resources available to pay the cost of or to obtain the items for which the supplement may be provided.
(1.1) In order for a person with disabilities to receive a nutritional supplement under this section, the minister must receive a request in the form specified by the minister, completed by a medical practitioner, nurse practitioner or dietitian, in which the practitioner or dietitian has confirmed all of the following:
(a) the person with disabilities to whom the request relates is being treated by a medical practitioner or nurse practitioner for a chronic, progressive deterioration of health on account of a severe medical condition;
(b) as a direct result of the chronic, progressive deterioration of health, the person displays two or more of the following symptoms:
(i) malnutrition;
(ii) underweight status;
(iii) significant weight loss;
(iv) significant muscle mass loss;
(v) significant neurological degeneration;
(vi) significant deterioration of a vital organ;
(vii) moderate to severe immune suppression;
(c) for the purpose of alleviating a symptom referred to in paragraph (b), the person requires one or more of the items set out in section 7 of Schedule C and specified in the request;
(d) failure to obtain the items referred to in paragraph (c) will result in imminent danger to the person's life.
(2) In order to determine or confirm the need or continuing need of a person for whom a supplement is provided under subsection (1), the minister may at any time require that the person obtain an opinion from a medical practitioner, nurse practitioner or dietitian other than the medical practitioner, nurse practitioner or dietitian who completed the form referred to in subsection (1.1).
(3) Repealed.

Schedule C Health Supplement

Monthly nutritional supplement
7. The amount of a nutritional supplement that may be provided under section 67 [nutritional supplement] of this regulation is the sum of the amounts for those of the following items specified as required in the request under section 67 (1) (c):
(a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to $165 each month;
(b) Repealed.
(c) for vitamins and minerals, up to $40 each month.

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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
Keith Lascroix

SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2020-12-16

PRINT NAME
Kent Ashby

SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2020-12-16

PRINT NAME
Angie Blake

SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2020-12-16