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PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated April 6, 2021 which held that the appellant was not eligible for reimbursement for a venaseal procedure because the request failed to meet the legislative criteria set out in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The ministry held that the appellant is requesting reimbursement for a medical procedure that is not covered under the Medical Protection Act (through MSP), and that the venaseal procedure is neither an extended medical therapy under section 2(1)(c) of Schedule C of the EAPWDR, a medical or surgical supply under 2(1)(a), nor a medical equipment/device under Section 3, and is not an item set out in any other sections of Schedule C of the EAPWDR.

The ministry also held that the appellant is not eligible under the EAPWDR Section 69, as a health supplement for a person facing a direct and imminent life-threatening health need, again as the procedure is not eligible under Schedule C, nor eligible for a Crisis Supplement under Section 57(1) of the EAPWDR as a crisis supplement may not be provided for the purpose of obtaining a supplement described in Schedule C, or any other health care goods or services.

PART D – RELEVANT LEGISLATION

EAPWDA	Employment and Assistance for Persons with Disabilities Act,
EAPWDR	Employment and Assistance for Persons with Disabilities Regulation, Sections 57, 62-70, and Schedule C,

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PART E – SUMMARY OF FACTS

The evidence before the minister at reconsideration includes the following:

- The appellant has been designated as a Person with Disabilities (PWD) and is in receipt of disability assistance and is eligible to receive health supplements under Section 62 of the EAPWDR.
- A January 21, 2021, letter in which the appellant writes that a Physician operated on the appellant's chronic venous insufficiency and the appellant had to pay $4200. The appellant requested reimbursement.
- A December 15, 2020, letter from the Physician who writes that the appellant had been evaluated at the end of November 2020 and diagnosed with Chronic Venous Insufficiency Stage 3. Because of a history of heart disease and chronic anticoagulation the appellant is at a high risk for post operative thromboembolism/bleeding, and the Physician recommended Endovenous Therapy to avoid any of those risks.
- An invoice and receipt for $4200 paid to the Physician, a Vascular Surgeon, on January 21, 2021,
- The appellant's request for reconsideration that stated that after a long series of constant problems and pains concerning the appellant's varicose veins and after having repeatedly visited the family doctor and other specialists, that finally on January 21st, a Physician operated on the varicose veins and since the surgery the pain has subsided greatly.
- The appellant's information that the cost of that $4,200 operation was fully borne by the appellant's relative as evidenced by the receipt attached to the Physician's invoice dated January 21, 2021, and that the relative had to borrow the monies and wants the amount paid back.
- The appellant had written that they believed that the ministry decision to deny the request was supported by sections other than those that should have been considered.
- The appellant had requested that the ministry reconsider the decision to deny the request and asked for reimbursement based on EAPWDR Section 69 (1)(b) and General Health Supplements 2(1)(a)(i)(F) and 2(1)(a)(ii)(C),
- A March 17, 2021 letter from the Physician highlighting the appellant's medical background, and the medical importance of the procedure to avoid any of the post operative thromboembolism/bleeding risks mentioned above. The letter was accompanied by photographs of the appellant's swollen legs.

The appeal hearing was held as a written hearing.

The Ministry relied upon the summary of the reconsideration decision in the written hearing.

The Appellant did not make a submission for the written appeal but wrote in the notice of appeal (NOA) that the ministry's decision to deny the request was supported by sections of legislation other that those that should have been considered. The panel notes there were no further specific sections referred to by the appellant that in the appellant's opinion should have been considered, other than those contained in the appellant's request for reconsideration noted above.

The panel notes that the neither the physician nor the appellant has provided a description of what "venaseal, or Endovenous Therapy" is, nor compared the requirement to any other form of possible treatment or therapy.

Upon review of the available information the panel finds that the appellant underwent a medical procedure; venaseal surgery, on varicose veins within the appellants legs in January 2021 and that a sum of $4200 was paid to a vascular surgeon for the procedure.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's decision which held that the appellant is not eligible for reimbursement for a venaseal procedure because the request failed to meet the legislative criteria set out in the EAPWDR was reasonable.

In particular, was the ministry reasonable in determining that a venaseal procedure is neither an extended medical therapy, medical or surgical supplies, nor a medical equipment/device, and is not an item set out in any other sections of the EAPWD Regulation, Schedule C.

Further, was the ministry's determination that the appellant is not eligible for a venaseal procedure as a health supplement for a person facing a direct and imminent life threatening health need, nor is eligible for a Crisis Supplement reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

Legislation

Under Section 62 of the EAPWDR, the minister may provide any health supplement set out in section 2 or 3 of Schedule C provided the applicant is part of a family unit in receipt of disability assistance. If that condition is met, Schedule C of the EAPWDR specifies additional criteria that the person's family unit must meet to qualify for specified general health supplements. Please refer to the Schedule at the end of this decision for the full text of Section 62 and Sections 2 and 3 of Schedule C of the EAPWDR, as well as Section 57 and 69 of the EAPWDR.

Extended Medical Therapy or Service/Medical or Surgical Supplies

Ministry position

The ministry argues that while a physician has prescribed a venaseal procedure, and that this procedure is required for limb circulation care, the ministry is not satisfied that a venaseal procedure is a medical or surgical supply item but rather a medical or surgical procedure. Therefore, the appellant's request does not meet the requirement that it be the least expensive health supplement under the Act, nor has it been established that the appellant requires this procedure to avoid substantial danger to health, as required by legislation.

The ministry further argues that a venaseal procedure is a medical procedure that is not covered under the Medical Protection Act (through MSP) and is not an extended medical therapy. Further that this procedure is not physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services, or acupuncture services. Therefore, the procedure is not included in the list of extended medical therapies which may be provided under the legislation.

Further, the ministry accepts there are no resources available to the appellant to cover the cost of the procedure but argues the appellant is not requesting additional visits to services after exhausting the 10 allowed visits to the therapies covered under the Medical Protection Act (through MSP).

Appellant position

The appellant argues in a letter dated and faxed to the ministry on 21 January 2021 that "according to recommendation" (sic) the physician should have faxed two letters, a diagnosis of condition and a medical justification to the ministry. The physician letter dated 15 December 2020 was apparently designed to address both these factors. This letter was also faxed on 21 January 2021.

The appellant argues that a physician recommended and conducted the Endovenous Therapy (venaseal procedure) because of a history of heart disease and chronic anticoagulation with a high risk for post operative thromboembolism/bleeding. The appellant provided an invoice showing a lump sum fee of one unit at $4000.00 plus $200.00 GST for a total of $4200.00 and seeks reimbursement.

The appellant's physician provided a further letter of support dated 17 March 2021 that highlighted the appellant's medical background, and the medical importance of the procedure to avoid any of the post operative

thromboembolism/bleeding risks mentioned above.

The appellant, in the request for reconsideration, specifically referred the ministry to the eligibility of limb circulation care under section 2(1)(a)(i)(F) and that the procedure was necessary to avoid an imminent and substantial danger to health, under section 2(1)(a)(ii)(C) of the EAPWDR.

Panel Findings

The applicable legislation is the EAPWDR and is contained in sections 2 and 3 of schedule C, for general health supplements and medical equipment and devices. Pertinent requirements to this appeal for section 2 that must be met include that the medical and surgical supplies 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;

and that the supplies are:

(A) prescribed by a medical practitioner or nurse practitioner,
(B) the least expensive supplies appropriate for the purpose, and
(C) necessary to avoid an imminent and substantial danger to health,

and that there are no resources available to the family unit to pay the cost of or obtain the supplies.

The legislation also states that the list of medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, are lancets; needles and syringes; ventilator supplies required for the essential operation or sterilization of a ventilator; and tracheostomy supplies.

In section 2(c), the legislation further provides that general health supplements also include a service delivered, in not more than 12 visits per calendar year for which a medical practitioner or nurse practitioner has confirmed an ‘acute’ need. These services are listed in the legislation and are acupuncture, chiropractic, massage therapy, naturopathy, non-surgical podiatry, and physical therapy.

The two letters of the Physician support the view that the venaseal procedure was performed to avoid any of the high risks for post operative thromboembolism/bleeding but do not discuss what any possible other treatment or therapy was, nor does the panel see evidence to suggest the venaseal procedure was in lieu of a procedure that is covered by MSP or that this is an alternate therapy pre-approved by the ministry.

The panel had previously found that the appellant underwent a medical procedure; venaseal surgery, on varicose veins within the appellants legs. The panel noted the physician diagnosis of Chronic Venous Insufficiency Stage 3 but does not see any indication of a diagnosis of an ‘acute’ need or condition. The invoice submitted was for a lump sum amount and did not identify any medical or surgical supplies, such as lancets or needles as defined in the legislation above.

The panel finds that the venaseal procedure does not fit any legislated description of medical or surgical supplies, namely lancets, needles and syringes; ventilator supplies or tracheostomy supplies, under section 2(1)(a), or any of the medical service definitions of the six extended therapies shown above described under section 2(1)(c).

The panel finds that the ministry was reasonable when it determined that the venaseal procedure is not a medical or surgical supply but rather a medical or surgical procedure, and that the request does not meet the requirement as the least expensive health supplement appropriate for the purpose.

The panel accepts that the venaseal procedure was recommended and conducted to avoid a high risk to the appellant but does not find a clear statement by the physician that this procedure was required to address the

diagnosis. The panel therefore finds the ministry was reasonable when it stated that it had not been established that the appellant required this procedure to avoid substantial danger to health.

Medical Equipment/Device

Ministry position

The ministry states that it is authorized to provide medical equipment/devices under legislation. The ministry argues a venaseal procedure is not a medical equipment/device, that a venaseal procedure is a procedure which is not included in the list of medical equipment which may be provided. In addition, the ministry argues that the information provided does not establish the other legislated criteria set out in these sections, for each of these health supplements, have been met.

Appellant position

The appellant argues that a physician recommended and conducted the Endovenous Therapy (venaseal procedure) because of a history of heart disease and chronic anticoagulation with a high risk for post operative thromboembolism/bleeding. The appellant provided an invoice showing a lump sum fee of one unit at $4000.00 plus $200.00 GST for a total of $4200.00.

The appellant argues in a letter dated and faxed to the ministry on 21 January 2021 that “according to recommendation” (sic) the physician should have faxed two letters, a diagnosis of condition and a medical justification to the ministry. The physician letter dated 15 December 2020 was apparently designed to address both these factors. This letter was also faxed on 21 January 2021.

Panel Findings

The legislation provides under section 3 of schedule C the types of medical equipment and devices that may be provided by the minister if all of the following requirements are met; - the appellant has received the pre-authorization of the minister, there are no resources available to the appellant, and the medical equipment or device is the least expensive appropriate health supplement. The panel notes that other requirements may apply for specific equipment or devices.

The types of equipment and devices that may be provided are defined in sections 3.1 to 3.12 and are summarised here;

- a crutch; a walker; and accessories
- a wheelchair; and components and accessories,
- a scooter; and components and accessories,
- a grab bar in a bathroom; and bath or shower accessories,
- a hospital bed; and components,
- a pressure relief mattress,
- a floor or ceiling lift device,
- a positive airway pressure device; and accessories,
- a custom-made or off-the-shelf foot orthotic; and other orthosis,
- a hearing instrument, or
- a non-conventional glucose meter

The panel noted the appellant’s position that a letter should have been submitted prior to the venaseal procedure and is unaware whether any discussion between the ministry and the appellant had taken place. The letter was not sent until after the procedure had been conducted in January 2021. The panel finds that no pre-authorization for any procedure had been provided by the minister.

The panel found previously that a sum of $4200.00 had been paid by the appellant’s relative for the venaseal procedure. The appellant has not provided a cost comparison to demonstrate it was the least expensive

appropriate procedure.

The panel finds that the venaseal procedure does not fit any of the descriptions of medical equipment or device provided in section 3 of the legislation.

The panel finds that the ministry was reasonable when it determined that the venaseal procedure is a procedure and not included in the list of medical equipment which may be provided, and that that the information provided does not establish the other legislated criteria set out in these sections, for each of these health supplements, have been met.

Other Supplements

Ministry position

The ministry argues that a venaseal procedure is not an item set out in any other sections of the EAPWD Regulation, Schedule C, in that a venaseal procedure does not meet the criteria as one of the remaining health supplements, including medical transportation supplements, optical supplements, eye examination supplements, dental supplements; crown and bridgework supplements; emergency dental supplements; diet supplements; monthly nutritional supplements; natal supplements; and infant formula.

The ministry may also provide a nutritional supplement for an acute short-term need, however the ministry argues a venaseal procedure is not one of these supplements.

In addition, the ministry argues that the information provided does not establish the other legislated criteria set out in these sections, for each of these health supplements, have been met.

Appellant position

The appellant argues that a physician recommended and conducted the Endovenous Therapy (venaseal procedure) because of a history of heart disease and chronic anticoagulation with a high risk for post operative thromboembolism/bleeding. The appellant provided an invoice showing a lump sum fee of one unit at $4000.00 plus $200.00 GST for a total of $4200.00 and seeks reimbursement.

The appellant believes that the ministry decision to deny the request was supported by sections other than those that should have been considered.

Panel position

The legislation provides for other supplements in the EAPWD Regulation. In Schedule C, sections 2(f), 2.1, 2.2, 4, 4.1, 5, 6, 7, 8, and 9 provide criteria whereby the minister may provide a supplement. These are; medical transportation supplements, optical supplements, eye examination supplements, dental supplements; crown and bridgework supplements; emergency dental supplements; diet supplements; monthly nutritional supplements; natal supplements; and, infant formula.

EAPWDR Section 67.001 sets out that the ministry may provide a nutritional supplement for an acute short-term need.

Although the appellant believes that the ministry decision to deny the request was supported by sections other than those that should have been considered, the panel noted earlier that there were no other specific sections referred to by the appellant that in the appellant's opinion should have been considered. The specific sections that were submitted for consideration by the appellant have been dealt with in other sections of this appeal.

The panel has found that the appellant underwent a medical procedure; venaseal surgery, on varicose veins within the appellants legs in January 2021 and that a sum of $4200 was paid to a vascular surgeon for the procedure. Therefore, the panel finds that a venaseal procedure is not one of these other supplements discussed above.

Therefore, the panel finds the ministry was reasonable in determining that a venaseal procedure is not an item set out in any other sections of the EAPWD Regulation, Schedule C, and that the information provided does not establish the other legislated criteria set out in these sections, for each of these health supplements, have been met.

Life Threatening Health Need

Ministry position

The ministry argues the appellant is not eligible for a venaseal procedure as a health supplement for a person facing a direct and imminent life-threatening health need. The ministry argues it is intended to provide a remedy for those persons who are facing a direct and imminent life-threatening health need for these supplements and who are not otherwise eligible to receive them. The ministry holds that the venaseal procedure is not an item provided under the legislated sections. The ministry argues that although the appellant is eligible for general health supplements, the eligibility requirements for each health supplement need to be met. The ministry further argues information has not been provided that the appellant has a life-threatening need for this procedure. Therefore, the ministry argues the appellant does not require the remedy provided in section 69.

Appellant position

The appellant argues that the ministry provide reimbursement for the fees paid by a relative paid to the physician due to the lack of resources of the appellant. The appellant feels that after a long series of constant problems and pains concerning the appellant's varicose veins and after having repeatedly visited the family doctor and other specialists, that finally on January 21st, a Physician operated on the varicose veins and since the surgery the pain has subsided greatly.

The appellant further argues that in a letter from the Physician the appellant had been evaluated at the end of November 2020 and diagnosed with Chronic Venous Insufficiency Stage 3. Because of a history of heart disease and chronic anticoagulation the appellant is at a high risk for post operative thromboembolism/bleeding, and the Physician recommended Endovenous Therapy to avoid any of those risks.

In the application for reconsideration the appellant had specifically requested the ministry to reconsider the decision to deny and reimburse the fees paid under section 69 (1)(b).

Panel Findings

The legislation provides, under section 69 of the EAPWDR, that the minister may provide any general health supplement set out in sections 2 (1) (a) and (f), medical or surgical supplies, and section 3, medical equipment and devices, of Schedule C. Eligibility requires the health supplement to be provided to a person who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that the person faces a direct and imminent life threatening need and there are no resources available to the person to meet that need. Certain requirements specified in the provisions of Schedule C, may also be applicable.

The panel has previously found that the procedure under request is a medical surgical procedure that is not included within section 2, or section 3 of schedule C of the EAPWD Regulation.

As the venaseal procedure is not an authorised procedure under the MSP, and there is no evidence provided by the appellant regarding travel, the panel finds the appellant has not met the criteria for repayment of any transportation costs incurred under section 2(1)(f).

The panel finds that regardless of whether the appellant meets other criteria or eligibility within section 69 regarding a potential life threatening need, the minister is unable to exercise discretion and is limited to the provision of

services under the appropriate clauses of section 2 and 3 of schedule C.

Therefore the panel finds that the Ministry reasonably determined that the appellant's request for reimbursement for this procedure does not meet the legislated requirements for a health supplement as set out in the EAPWD Regulation and therefore cannot be accommodated under Section 69 of the EAPWDR.

Crisis supplement

Ministry position

The ministry argues the appellant is not eligible for a venaseal procedure as a Crisis Supplement, as the appellant does not meet all the legislated requirements.

The ministry is satisfied that the appellant does not have resources to meet the need for a venaseal procedure. The ministry is also satisfied that failure to provide a crisis supplement for a venaseal procedure will result in imminent danger to the appellant's physical health.

The ministry argues the appellant has not presented an unexpected need or expense for a venaseal procedure. The ministry argues that insufficient information related to the appellant's ongoing medical condition has been submitted to establish whether the need for this procedure was unexpected. Based on the information provided, the ministry cannot establish the appellant has an unexpected need for this procedure.

Lastly, the ministry argues that a venaseal procedure is not described in the health supplements provided under Schedule C. As a venaseal procedure is a medical procedure, the ministry finds that it is considered a heath care good or service which is excluded from coverage under section 57.

Appellant position

The appellant argues that the ministry should provide reimbursement for the fees paid by a relative to the physician due to the lack of resources of the appellant. The appellant feels that after a long series of constant problems and pains concerning the appellant's varicose veins and after having repeatedly visited the family doctor and other specialists, that finally on January 21st, a Physician operated on the varicose veins and since the surgery the pain has subsided greatly.

Panel Finding

The legislation provides the ministry with the authority to issue crisis supplements under specific circumstances where eligibility criteria are met. Section 57(1) criteria includes the supplement being needed to meet an unexpected expense or obtain an item unexpectedly needed and the appellant is unable to meet the expense or obtain the item because there are no resources available, and where the minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of the appellant.

However, section 57(3) expressly precludes a crisis supplement "for the purpose of obtaining a supplement described in Schedule C" or "any other health care goods or services."

As the panel has previously found that a venaseal procedure is a medical procedure which does not fall within the eligibility provisions of schedule C, the panel finds the procedure must fall within the description of "other health care goods or services". Therefore, a crisis supplement for the venaseal procedure is precluded under section 57(3).

The panel finds that the Ministry reasonably determined that it has no authority to provide coverage for the item that is the subject of this appeal under the provisions of section 57 of the EAPWDR.

In conclusion, the panel finds that the ministry's decision to deny the request for a supplement to reimburse the cost

of a venaseal procedure, as not meeting the legislated requirement of sections 57 and 59, and Section 2, and 3 of Schedule C of the EAPWDR, was reasonably supported by the evidence in the circumstances of the appellant, pursuant to Section 24(1)(a) of the Employment and Assistance Act. Therefore, the panel confirms the ministry's reconsideration decision. The appellant is not successful in the appeal.

Schedule of Applicable Legislation

General health supplements

62 The minister may provide any health supplement set out in section 2 *[general health supplements]* or 3 *[medical equipment and devices]* of Schedule C to or for

(a)a family unit in receipt of disability assistance,

(b)a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or

Ia family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

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,

Ithe 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).

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SCHEDULE C

General health supplements

2 (1)The following are the health supplements that may be paid for by the minister if provided to a family unit that is eligible under section 62 *[general health supplements]* of this regulation:

(a)medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all of the following requirements are met:

(i)the supplies are required for one of the following purposes:

(A)wound care;

(B)ongoing bowel care required due to loss of muscle function;

Icatheterization;

(D)incontinence;

Iskin parasite care;

(F)limb circulation care;

(ii)the supplies are

(A)prescribed by a medical practitioner or nurse practitioner,

(B)the least expensive supplies appropriate for the purpose, and

Inecessary to avoid an imminent and substantial danger to health;

(iii)there are no resources available to the family unit to pay the cost of or obtain the supplies;

(a.1)the following medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all the requirements described in paragraph (a) (ii) and (iii) are met in relation to the supplies:

(i)lancets;

(ii)needles and syringes;

(iii)ventilator supplies required for the essential operation or sterilization of a ventilator;

(iv)tracheostomy supplies;

(a.2)consumable medical supplies, if the minister is satisfied that all of the following requirements are met:

(i)the supplies are required to thicken food;

(ii)all the requirements described in paragraph (a) (ii) and (iii) are met in relation to the supplies;

(b)Repealed. [B.C. Reg. 236/2003, Sch. 2, s. 2 (b).]

Isubject to subsection (2), a service provided by a person described opposite that service in the following table, delivered in not more than 12 visits per calendar year,

(i)for which a medical practitioner or nurse practitioner has confirmed an acute need,

(ii)if the visits available under the Medical and Health Care Services Regulation, B.C. Reg. 426/97, for that calendar year have been provided and for which payment is not available under the *Medicare Protection Act*, and

(iii)for which there are no resources available to the family unit to cover the cost:

Item	**Service**	**Provided by**	**Registered with**
1	acupuncture	acupuncturist	College of Traditional Chinese Medicine under the *Health Professions Act*
2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the *Health Professions Act*
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the *Health Professions Act*
4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the *Health Professions Act*
5	non-surgical podiatry	podiatrist	College of Physicians and Surgeons of British Columbia under the *Health Professions Act*
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the *Health Professions Act*

(f) the least expensive appropriate mode of transportation to or from

(i) an office, in the local area, of a medical practitioner or nurse practitioner,

(ii) the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist in that field by a local medical practitioner or nurse practitioner,

(iii) the nearest suitable general hospital or rehabilitation hospital, as those facilities are defined in section 1.1 of the Hospital Insurance Act Regulations, or

(iv) the nearest suitable hospital as defined in paragraph I of the definition of "hospital" in section 1 of the *Hospital Insurance Act*,

provided that

(v) the transportation is to enable the person to receive a benefit under the *Medicare Protection Act* or a general hospital service under the *Hospital Insurance Act*, and

(vi) there are no resources available to the person's family unit to cover the cost.

(2)No more than 12 visits per calendar year are payable by the minister under this section for any combination of physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services.

(2.1)If eligible under subsection (1) I and subject to subsection (2), the amount of a general health supplement under section 62 of this regulation for physical therapy services, chiropractic services, massage therapy services, non-surgical podiatry services, naturopathy services and acupuncture services is $23 for each visit.

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.

Medical equipment and devices — canes, crutches and walkers

3.1 (1)Subject to subsection (2) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain basic mobility:

(a)a cane;

(b)a crutch;

Ia walker;

(d)an accessory to a cane, a crutch or a walker.

(2)A walking pole is not a health supplement for the purposes of section 3 of this Schedule.

Medical equipment and devices — wheelchairs

3.2 (1)In this section, "wheelchair" does not include a stroller.

(2)Subject to subsection (4) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain basic mobility:

(a)a wheelchair;

(b)an upgraded component of a wheelchair;

Ian accessory attached to a wheelchair.

(3)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (2) of this section is 5 years after the minister provided the item being replaced.

(4)A high-performance wheelchair for recreational or sports use is not a health supplement for the purposes of section 3 of this Schedule.

Medical equipment and devices — wheelchair seating systems

3.3 (1)The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain a person's positioning in a wheelchair:

(a)a wheelchair seating system;

(b)an accessory to a wheelchair seating system.

(2)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 2 years from the date on which the minister provided the item being replaced.

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;

Ian 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;

Ithe minister is satisfied that the item is medically essential to achieve or maintain basic mobility.

(3.1)The maximum amount of $4 500 under subsection (3) (b) applies if an assessment by an occupational therapist or a physical therapist has confirmed that the person for whom the scooter has been prescribed has a body weight that exceeds the weight capacity of a conventional scooter but can be accommodated by a bariatric scooter.

(4)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (2) of this section is 5 years after the minister provided the item being replaced.

(5)A scooter intended primarily for recreational or sports use is not a health supplement for the purposes of section 3 of this Schedule.

Medical equipment and devices — toileting, transfers and positioning aids

3.5 (0.1)In this section:

"positioning chair" does not include a lift chair;

"transfer aid" means a transfer board, transfer belt or slider sheet.

(1)The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate toileting or transfers of a person or to achieve or maintain a person's positioning:

(a)a grab bar in a bathroom;

(b)a bath or shower seat;

Ia bath transfer bench with hand held shower;

(d)a tub slide;

Ia 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 for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;

(l)a positioning chair for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;

(m)a transfer aid for a person for whom the transfer aid is medically essential to transfer from one position to another.

(2)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

Medical equipment and devices — hospital bed

3.6 (1)Subject to subsection (3) of this section, the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate transfers of a person to and from bed or to adjust or maintain a person's positioning in bed:

(a)a hospital bed;

(b)an upgraded component of a hospital bed;

Ian accessory attached to a hospital bed;

(d)a positioning item on a hospital bed.

(2)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

(3)The following items are not health supplements for the purposes of section 3 of this Schedule:

(a)an automatic turning bed;

(b)a containment type bed.

Medical equipment and devices — pressure relief mattresses

3.7 (1)A pressure relief mattress is a health supplement for the purposes of section 3 of

this Schedule if the minister is satisfied that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity.

(2)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (1) of this section is 5 years from the date on which the minister provided the item being replaced.

Medical equipment and devices — floor or ceiling lift devices

3.8 (1)In this section, "floor or ceiling lift device" means a device that stands on the floor or is attached to the ceiling and that uses a sling system to transfer a person.

(2)A floor or ceiling lift device is a health supplement for the purposes of section 3 of this Schedule if the following requirements are met:

(a)the minister is satisfied that the floor or ceiling lift device is medically essential to facilitate transfers of a person in a bedroom or a bathroom;

(b)the cost of the floor or ceiling lift device does not exceed $4 200 or, if the cost of the floor or ceiling lift device does exceed $4 200, the minister is satisfied that the excess cost is a result of unusual installation expenses.

(3)The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an item described in subsection (2) of this section is 5 years from the date on which the minister provided the item being replaced.

Medical equipment and devices — breathing devices

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

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

(i)a positive airway pressure device,

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

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

(b)if the minister is satisfied that the item is medically essential to monitor breathing,

(i)an apnea monitor,

(ii)an accessory that is required to operate an apnea monitor, or

(iii)a supply that is required to operate an apnea monitor;

Iif the minister is satisfied that the item is medically essential for clearing respiratory airways,

(i)a suction unit,

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

(iii)a supply that is required to operate a suction unit;

(d)if the minister is satisfied that the item is medically essential for clearing respiratory airways,

(i)a percussor,

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

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

Iif the minister is satisfied that the item is medically essential to avoid an imminent and substantial danger to health,

(i)a nebulizer,

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

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

(f)if the minister is satisfied that the item is medically essential to moisturize air in order to allow a tracheostomy patient to breathe,

(i)a medical humidifier,

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

(iii)a supply that is required to operate a medical humidifier;

(g)if the minister is satisfied that the item is medically essential to deliver medication,

(i)an inhaler accessory device,

(ii)an accessory that is required to operate an inhaler accessory device, or

(iii)a supply that is required to operate an inhaler accessory device.

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

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

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

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

Medical equipment and devices — orthoses

3.10 (1)In this section:

"off-the-shelf", in relation to an orthosis, means a prefabricated, mass-produced orthosis that is not unique to a particular person;

"orthosis" means

(a)a custom-made or off-the-shelf foot orthotic;

(b)custom-made footwear;

Ia permanent modification to footwear;

(d)off-the-shelf footwear required for the purpose set out in subsection (4.1) (a);

Ioff-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.

(2)Subject to subsections (3) to (11) of this section, an orthosis is a health supplement for the purposes of section 3 of this Schedule if

(a)the orthosis is prescribed by a medical practitioner or a nurse practitioner,

(b)the minister is satisfied that the orthosis is medically essential to achieve or maintain basic functionality,

Ithe minister is satisfied that the orthosis is required for one or more of the following purposes:

(i)to prevent surgery;

(ii)for post-surgical care;

(iii)to assist in physical healing from surgery, injury or disease;

(iv)to improve physical functioning that has been impaired by a neuro-musculo-skeletal condition, and

(d)the orthosis is off-the-shelf unless

(i)a medical practitioner or nurse practitioner confirms that a custom-made orthosis is medically required, and

(ii)the custom-made orthosis is fitted by an orthotist, pedorthist, occupational therapist, physical therapist or podiatrist.

(11)The following items are not health supplements for the purposes of section 3 of this Schedule:

(a)a prosthetic and related supplies;

(b)a plaster or fiberglass cast;

(c)a hernia support;

(d)an abdominal support.

(12)An accessory or supply that is medically essential to use an orthosis that is a health supplement under subsection (2) is a health supplement for the purposes of section 3 of this Schedule.

Medical equipment and devices — hearing instruments

3.11 (1)A hearing instrument is a health supplement for the purposes of section 3 of this Schedule if

(a)the hearing instrument is prescribed by an audiologist or hearing instrument practitioner, and

(b)an audiologist or hearing instrument practitioner has performed an assessment that confirms the need for a hearing instrument.

Medical equipment and devices — non-conventional glucose meters

3.12 (1)In this section, "non-conventional glucose meter" includes

(a)a continuous glucose monitoring meter, and

(b)a talking glucose meter.

(2)A non-conventional glucose meter is a health supplement for the purposes of section 3 of this Schedule if the minister is satisfied that

(a)the glucose meter is medically essential to test blood glucose levels, and

(b)the person for whom the non-conventional glucose meter has been prescribed is unable to use a conventional glucose meter.

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.

APPEAL NUMBER
2021-0085

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	
Donald Stedeford	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2021/05/31

PRINT NAME	
Linda Smerychynski	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2021/05/31
PRINT NAME Dawn Martin	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2021/05/31