

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated June 15, 2021, which held that the appellant was not eligible for funding for a blood pressure monitor. The appellant was eligible to receive health supplements under section 62 and Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (the Regulation) but the request did not meet the legislated requirements for a health supplement because a blood pressure monitor:

- is not medical equipment or a device listed in section 3 of Schedule C, therefore it cannot be provided under section 3.
- is a device, not a medical or surgical supply, so it may not be provided under section 2 of Schedule C; additionally, the requirement of section 2 that the item be required to avoid imminent and substantial danger is not met, and the blood pressure monitor is not required for one of the purposes listed in section 2(1)(a)(i).
- is not an item set out in any other sections of the Schedule C of the Regulation, such as a therapy or other health supplement.

The ministry also found that the appellant was not eligible for a blood pressure monitor under section 69 as a health supplement for a person facing a direct and imminent life-threatening health need or under section 57 as a crisis supplement.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation, sections 57 and 69 and Schedule C

PART E – SUMMARY OF FACTS

Information before the ministry at the time of reconsideration

- Prescription from a physician dated May 7, 2021 for a home blood pressure monitor.
- Request for Reconsideration form dated June 8, 2021, which includes the following information from the appellant:
 - The physician asked her to check her blood pressure 3 times a day
 - Public monitors are not available due to COVID-19 and driving to the drugstore three times a day is impractical and not cost effective
 - She has had high blood pressure for years, with medication covered by the ministry
 - She does not have the money to pay for the \$100 one-time purchase
 - As a person with a disability, it is her right to have a medical device prescribed by her doctor
 - High blood pressure is not called the silent killer for no reason

Additional information provided

In the Notice of Appeal (“NOA”) dated June 21, 2021, the appellant states that her income does not allow her to buy a blood pressure monitor and it is important she have the monitor.

On a Request for Reconsideration form dated June 23, 2021, the appellant provides additional information including:

- Medication is not doing what it is supposed to which is why her doctor wants her to check her blood pressure regularly
- All the back and forth paperwork is ridiculous and the hours of paper and processing already taken by the ministry could have paid for her medical device.
- If clothing can be provided, so can her monitor.

At the hearing, the appellant stated that she was shocked that the ministry doesn't think the need for the blood pressure monitor is a life-threatening need. The appellant described her history with high blood pressure, stating that her blood pressure is still not controlled despite trying multiple medications. To figure out what is going on, the doctor told the appellant to check her blood pressure three times daily. The appellant reiterated the difficulties accessing monitors at a drug store and her frustration that the cost of the resources, financial, human, and paper, already used to process her application exceed the cost of the blood pressure monitor. The appellant stated that the legislation needs to change because disability assistance is insufficient to cover the blood pressure monitor or other treatments recommended by her doctor, including physiotherapy, that are only partially covered by the ministry. She shouldn't have to beg for a blood pressure monitor that was prescribed because it is needed.

At the hearing, the ministry stated that its decision is not intended to negate the importance of

what the appellant says or the need for the blood pressure monitor but is to explain that the ministry does not have legal authority to provide the blood pressure monitor and does not have the power to change the legislation.

Admissibility of New Information

The panel admitted the written and oral information provided by the appellant on appeal as it is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, in accordance with section 22(4) of the *Employment and Assistance Act* because the new information relates to the appellant's need for a blood pressure monitor.

The panel accepts the ministry's statements as argument.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant's request for a blood pressure monitor was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Was the ministry reasonable in determining that a blood pressure monitor:

- is not a medical equipment/device included under section 3 of Schedule C
- is not a medical supply, is not required for one of the listed purposes, and is not required to avoid imminent and substantial danger to the appellant's health so it cannot be provided under section 2(1)(a) of Schedule C
- is not an item set out in any other sections of the EAPWDR Schedule C such as a therapy or other health supplements?

Was the ministry reasonable in determining that the appellant was not eligible for a blood pressure monitor under EAPWDR section 69, as a health supplement for a person facing a direct and imminent life-threatening health need?

Was the ministry reasonable in determining that the appellant was not eligible for a blood pressure monitor as a crisis supplement under EAPWDR section 57?

Relevant Legislation

Please see attached Schedule A for the relevant legislation.

Panel Decision

Eligibility for a blood pressure monitor as medical equipment or a device, section 3 of Schedule C

Section 3 sets out general requirements applicable to the medical equipment and devices listed in sections 3.1 to 3.12. Sections 3 to 3.12 set out the requirements for eligibility for specific medical equipment and devices.

The appellant's position is that a blood pressure monitor is a medical device prescribed by her doctor to keep her alive and should therefore be provided by the ministry.

The ministry's position is that the appellant is not eligible for a blood pressure monitor as a medical equipment/device under section 3 of Schedule C as it is not a listed device set out in sections 3.1 to 3.12 (cane, crutch, walker, wheelchair, wheelchair seating, scooter, various assistive bathroom equipment/devices, hospital bed, pressure relief mattress, floor or ceiling lift device, positive airway pressure device, orthotics, hearing instrument or a non-conventional glucose meter). The ministry also notes that non-glucose meters may be provided under section 3.12 but that a blood pressure monitor is a device used to monitor

blood pressure, not test blood glucose levels.

The panel finds that the ministry reasonably determined that a blood pressure monitor is not one of the listed medical devices or equipment set out in sections 3.1 to 3.12 as it is not a cane, crutch, walker, wheelchair, wheelchair seating, scooter, various assistive bathroom equipment/devices, hospital bed, pressure relief mattress, floor or ceiling lift device, positive airway pressure device, orthotics, hearing instrument or a non-conventional glucose meter. The legislation does not give the ministry the authority to provide medical equipment or devices not listed.

Accordingly, the panel finds that the ministry reasonably determined that a blood pressure monitor was not eligible for funding under section 3 of Schedule C.

Eligibility for a blood pressure monitor as a medical supply, section 2(1)(a) of Schedule C

Section 2(1)(a)(i) allows for the provision of medical or surgical supplies that are either disposable or reusable if the supplies are for the purpose of wound care, ongoing bowel care, catheterization, incontinence, skin parasite care or limb circulation care. Additionally, section 2(1)(a)(ii) requires that the supplies must be prescribed by a medical practitioner, the least expensive appropriate supplies, and necessary to avoid imminent and substantial danger to health. Lastly, section 2(1)(a)(iii) requires that there are no resources available to the family unit to pay for the cost.

The appellant does not argue that a blood pressure monitor is a medical supply but does object to the ministry's conclusion that her high blood pressure does not represent an imminent and substantial danger to her health.

The ministry's position is that a blood pressure monitor is not a medical supply, either disposable or reusable, but is instead a permanent device. Nor does the ministry accept that it is required for one of the purposes listed in section 2(1)(a)(i) or that the information establishes the blood pressure monitor it is required to avoid imminent and substantial danger to health, noting that the appellant has had high blood pressure for years and is on medication for treatment. The ministry accepts that the other requirements, including that a physician has prescribed the item, are met.

The panel finds that the ministry reasonably determined that a blood pressure monitor is a device, which is of a more permanent nature than a reusable or disposable medical supply, and that it is not required for any of the purposes listed in section 2(1)(a)(i). The panel also finds that the ministry reasonably determined that the information does not establish that a home blood pressure monitor is necessary to avoid an imminent and substantial danger to health. The appellant states that high blood pressure is life-threatening, which is why it is referred to as the silent killer. However, in the absence of any information from the appellant's physician indicating that failure to a blood pressure monitor will result in imminent - which suggests a degree of immediacy - and substantial danger to the appellant's health, the panel finds the ministry was reasonable to conclude this requirement was not met.

Accordingly, the panel finds that the ministry reasonably determined that a blood pressure monitor was not eligible for funding under section 2(1)(a) of Schedule C.

Eligibility for a blood pressure monitor as any other item under EAPWDR Schedule C

The remaining sections in Schedule C set out the requirements for health supplements including specific therapies, such as physiotherapy, medical transportation supplements, optical supplements, eye examination supplements, dental supplements, crown and bridgework supplements, emergency dental supplements, diet supplements, monthly nutritional supplements, natal supplements or infant formula.

The appellant does not argue that a blood pressure monitor is required as one of the other health supplements that can be considered under Schedule C.

The ministry's position is that a blood pressure monitor does not meet any of the other criteria for health supplements authorized under Schedule C.

The panel finds that the ministry reasonably determined that a blood pressure monitor does not meet the criteria for any of these health supplements as it is clearly not any of those services or items.

Eligibility for a blood pressure monitor as a life-threatening health need, section 69 of the Regulation

Section 69 of the Regulation sets out that the ministry may provide to a family unit any health supplement set out in section 2(1)(a) [*medical supplies*] and (f) [*medical transportation*] 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 faces a direct and imminent life-threatening need for the item.

The appellant's position is that she has a life-threatening need for a blood pressure monitor.

The ministry's position is that because a blood pressure monitor is not a medical supply, medical transportation or any of the medical equipment and devices set out in sections 2 and 3 of Schedule C, the appellant is not eligible under section 69. Additionally, the ministry's position is that because the appellant is eligible for health supplements under Schedule C, provided all the legislative criteria are met, the appellant is not eligible for a remedy under section 69.

Recipients of disability assistance, including the appellant, are eligible to receive Schedule C health supplements if the item requested is listed in Schedule C and the specific requirements set out in Schedule C for the item or service are met. Section 69 authorizes the ministry to provide some of the Schedule C health supplements to persons who do not receive disability assistance or otherwise qualify for the supplements. For those persons, all the requirements set out in Schedule C for the particular item or service must be met AND a life-threatening health need must be established.

Because the appellant is eligible to receive disability assistance, the remedy provided by section 69 does not apply. Additionally, as the panel found that the ministry reasonably determined that a blood pressure monitor is not an item provided under sections 2(1)(a) or (f) or section 3, funding for a blood pressure monitor cannot be provided under section 69 of the Regulation even if a life-threatening health need was established.

Eligibility for a blood pressure monitor as a crisis supplement, section 57 of the Regulation

Section 57 provides that the ministry may fund an item if the family unit requires the supplement to meet an unexpected expense or to obtain an item unexpectedly needed if there are no resources available to meet the need and if failure to obtain the item will result in imminent danger to the appellant's physical health. Section 57 also states that 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.

The appellant's position is that if clothing can be provided, why not a blood pressure monitor.

The ministry's position is that it was satisfied that the need for a home blood pressure monitor was unexpected, in part due to lack of access to drugstores during COVID-19, and that appellant does not have the resources to cover the cost. However, the ministry was not satisfied that a blood pressure monitor is required to avoid imminent and substantial danger to the appellant's health. The ministry concluded that although a blood pressure monitor may assist the appellant in monitoring her blood pressure, it is not clear that her physical health is in imminent danger without it.

The ministry also states that although not described in Schedule C, it is reasonable to consider a blood pressure monitor to be a health care good. Therefore, it cannot be provided as a crisis supplement.

While the panel acknowledges high blood pressure as a serious medical condition, given the absence of information from the physician, the panel finds that the ministry reasonably determined that the information is not sufficient to demonstrate an imminent danger to the physical health of the appellant.

Moreover, the panel finds that a blood pressure monitor is a health care good and cannot be provided under section 57 even if an imminent and substantial danger to health is established.

The panel finds that the ministry reasonably determined that the appellant is not eligible for funding for a blood pressure monitor under section 57 as a crisis supplement.

Conclusion

The panel finds that the ministry's decision that the appellant was not eligible for a blood pressure monitor was a reasonable application of the legislation in the appellant's

circumstances. In particular, the panel finds that the ministry reasonably determined that the legislative requirements were not met for a health supplement under Schedule C, a crisis supplement under EAPWDR section 57, or a life-threatening health need supplement under section 69.

The panel therefore confirms the ministry's decision. The appellant is not successful on appeal.

Schedule A – Legislation

Employment and Assistance for Persons with Disabilities Regulation

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.

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).

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;
 - (C) catheterization;
 - (D) incontinence;
 - (E) skin 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
 - (C) necessary 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.
- (c) subject 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 <i>Health Professions Act</i>

2	chiropractic	chiropractor	College of Chiropractors of British Columbia under the <i>Health Professions Act</i>
3	massage therapy	massage therapist	College of Massage Therapists of British Columbia under the <i>Health Professions Act</i>
4	naturopathy	naturopath	College of Naturopathic Physicians of British Columbia under the <i>Health Professions Act</i>
5	non-surgical podiatry	podiatrist	College of Physicians and Surgeons of British Columbia under the <i>Health Professions Act</i>
6	physical therapy	physical therapist	College of Physical Therapists of British Columbia under the <i>Health Professions Act</i>

(d) and (e) Repealed. [B.C. Reg. 75/2008, s. (a).]

(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 (e) 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.

(g) Repealed.

(1.1) For the purposes of subsection (1) (a), medical and surgical supplies do not include nutritional supplements, food, vitamins, minerals or prescription medications.

(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) (c) 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.

(3) If the minister provided a benefit to or for a person under section 2 (3) of Schedule C of the Disability Benefits Program Regulation, B.C. Reg. 79/97, the Income Assistance Regulation, B.C. Reg. 75/97 or the Youth Works Regulation, B.C. Reg. 77/97, as applicable, for the month during which the regulation was repealed, the minister may continue to provide that benefit to or for that person as a supplement under this regulation on the same terms and conditions as

previously until the earlier of the following dates:

- (a) the date the conditions on which the minister paid the benefit are no longer met;
- (b) the date the person ceases to receive disability assistance.

Section	Title
2.1	Optical supplements
2.2	Eye examination supplements

Medical equipment and devices

3 (1) Subject to subsections (2) to (5) of this section, the medical equipment and devices described in sections 3.1 to 3.12 of this Schedule are the health supplements that may be provided by the minister if

- (a) the supplements are provided to a family unit that is eligible under section 62 [general health supplements] of this regulation, and
- (b) all of the following requirements are met:
 - (i) the family unit has received the pre-authorization of the minister for the medical equipment or device requested;
 - (ii) there are no resources available to the family unit to pay the cost of or obtain the medical equipment or device;
 - (iii) the medical equipment or device is the least expensive appropriate medical equipment or device.

(2) For medical equipment or devices referred to in sections 3.1 to 3.8 or section 3.12, in addition to the requirements in those sections and subsection (1) of this section, the family unit must provide to the minister one or both of the following, as requested by the minister:

- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
- (b) an assessment by an occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

(2.1) For medical equipment or devices referred to in section 3.9 (1) (b) to (g), in addition to the requirements in that section and subsection (1) of this section, the family unit must provide to the minister one or both of the following, as requested by the minister:

- (a) a prescription of a medical practitioner or nurse practitioner for the medical equipment or device;
- (b) an assessment by a respiratory therapist, occupational therapist or physical therapist confirming the medical need for the medical equipment or device.

(3) Subject to subsection (6), the minister may provide as a health supplement a replacement of medical equipment or a medical device, previously provided by the minister under this section, that is damaged, worn out or not functioning if

- (a) it is more economical to replace than to repair the medical equipment or device previously provided by the minister, and
- (b) the period of time, if any, set out in sections 3.1 to 3.12 of this Schedule, as applicable, for the purposes of this paragraph, has passed.

(4) Subject to subsection (6), the minister may provide as a health supplement repairs of medical equipment or a medical device that was previously provided by the minister if it is more economical to repair the medical equipment or device than to replace it.

(5) Subject to subsection (6), the minister may provide as a health supplement repairs of

medical equipment or a medical device that was not previously provided by the minister if
 (a) at the time of the repairs the requirements in this section and sections 3.1 to 3.12 of this Schedule, as applicable, are met in respect of the medical equipment or device being repaired, and

(b) it is more economical to repair the medical equipment or device than to replace it.

(6) The minister may not provide a replacement of medical equipment or a medical device under subsection (3) or repairs of medical equipment or a medical device under subsection (4) or (5) if the minister considers that the medical equipment or device was damaged through misuse.

Section	Title
3.1	Canes, crutches and walkers
3.2	Wheelchairs
3.3	Wheelchair seating systems
3.4	Scooters
3.5	Toileting, transfers and positioning aids
3.6	Hospital bed
3.7	Pressure relief mattresses
3.8	Floor or ceiling lift devices
3.9	Breathing devices
3.10	Orthoses
3.11	Hearing instruments
3.12	Non-conventional glucose meters

Section	Title
4	Dental supplements
4.1	Crown and bridgework supplement
4.2	Denture supplements
5	Emergency dental supplements
6	Diet supplements
7	Monthly nutritional supplement
8	Natal supplement
9	Infant formula
10	Repealed
11	Alternative hearing assistance supplement

APPEAL NUMBER
2021-0136

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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/07/19

PRINT NAME

Barbara Sharp

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/19

PRINT NAME

John Pickford

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/19