

APPEAL NUMBER
2021-0132

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration Decision dated June 24, 2021 which denied the appellant's application for a replacement pressure relief mattress cover and topper. The ministry found that the appellant's application did not meet the requirement of section 3.7 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation and that the requested pressure relief mattress cover and topper is not medically essential to prevent skin breakdown and maintain skin integrity.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) sections 62 and 69; Schedule C, sections 3 and 3.7.

PART E – SUMMARY OF FACTS

Information before the minister at reconsideration included:

- A ministry purchase authorization dated Jan. 13, 2021 for an LTC 4000 Ultra 55 mattress in the amount of \$1,160.64.
- A letter from the ministry to the appellant dated Jan. 13, 2021 advising their decision.
- A copy of the appellant's Medical Equipment Request and Justification dated Dec. 11, 2020.
- A letter to the ministry from the appellant's Occupational Therapist dated Dec. 12, 2020 stating that a replacement mattress and mattress cover are needed for ease of transfers, comfort/sleep at night and management of back pain.
- An undated letter from the appellant's chiropractor stating that the appellant suffers from symptoms related to multiple sclerosis and a back condition and that a memory foam top cover for a mattress is recommended to prevent aggravation of the condition.
- The appellant's Request for Reconsideration, signed April 15, 2021.

Before the hearing, the appellant submitted a note on a prescription form from the appellant's chiropractor dated July 7, 2021 stating that the appellant is under care for shoulder pain and osteoporosis and would benefit from a mattress topper cover to help relieve pain while sleeping.

The appellant wrote a note on the Notice of Appeal to the Tribunal: "They paid for the mattress topper last time why not this time."

At the hearing the appellant stated that the pressure relief mattress is for support, but the topper allows pressure relief. The appellant is in a wheelchair all day and needs pain relief, which is a must.

In response to questions from the panel, the appellant stated that the mattress had to be replaced because it split due to use. The ministry supplied a topper previously. The appellant stated that the topper does not touch the skin, it's just a topper that surrounds the memory foam.

The ministry responded that the cover was denied but the request for a mattress was approved because under section 3.7 of the EAPWDR a pressure relief mattress must be medically essential to prevent skin breakdown and maintain skin integrity. There is no mention of this in the material provided by the appellant. The chiropractor's letter refers to relieving pain, not skin breakdown or integrity. The appellant's current medical condition does not meet the legislative requirements. The ministry stated that in the appellant's previous application for a mattress and mattress topper in 2015, which was approved, there was specific reference in the application to a need to prevent skin breakdown, however there is no mention of skin issues in the current application.

In response to questions from the appellant the ministry stated that the ministry would reconsider the appellant's request if the circumstances change and it is confirmed that the mattress topper is required to prevent skin breakdown and maintain skin integrity. In that event the appellant could apply again.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the reasonableness of the ministry decision to deny the appellant's application for a replacement pressure relief mattress cover and topper. The ministry found that the appellant's application did not meet the requirement of section 3.7 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation and that the requested pressure relief mattress cover and topper is not medically essential to prevent skin breakdown and maintain skin integrity.

The applicable legislation may be found at the end of the decision.

The appellant's position is that the ministry provided a mattress cover and topper previously and it is still needed.

The ministry's position is that the legislation states that a pressure relief mattress may be provided if it is medically essential to prevent skin breakdown and maintain skin integrity. This has not been established; therefore, the appellant is not eligible for provision of a pressure relief mattress cover.

Decision

The panel notes that the appellant previously received authorization for a pressure relief mattress topper as stated by the ministry because there was specific mention of a need to prevent skin breakdown. The current application and supporting documents make no mention of this.

Section 3(2) of Schedule C, EAPWDR refers to the requirements for provision of a device or equipment referred to in sections 3.1 to 3.8 of Schedule C as needing a prescription, an assessment or both. In this case the ministry denied the cover because there is no assessment that the appellant has a need for it as required under section 3(7). The ministry considered the appellant's request under section 3(3) of Schedule C, which provides for replacement of medical equipment that is damaged, worn out or not functioning, however section 3.7 of Schedule C states that a pressure relief mattress is a health supplement if the minister is satisfied that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity. There is no mention of skin breakdown or skin integrity in any of the medical justification provided with the appellant's request. Therefore, the panel finds that the ministry reasonably determined that the requirement of section 3.7 of Schedule C, EAPWDR has not been met.

The panel confirms the ministry decision. The appeal is not successful.

Legislation

EAPWDR

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
- (c) a 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,
- (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).

(2)For the purposes of subsection (1) (c),

- (a)"adjusted net income" has the same meaning as in section 7.6 of the Medical and Health Care Services Regulation, and
- (b)a reference in section 7.6 of the Medical and Health Care Services Regulation to an "eligible person" is to be read as a reference to a person in the family unit, other than a dependent child.

Schedule C

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.

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.

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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

Reece Wrightman

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/07/12

PRINT NAME

Edward Wong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/12

PRINT NAME

Nancy Eidsvik

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/12