

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision, dated December 13, 2021 (the “Reconsideration Decision”), which denied the Appellant’s request for a health supplement for a blood pressure cuff (the “BP Cuff”) on the basis that the BP Cuff:

- was not listed among the categories of medical equipment set out in sections 3.1 through 3.12 of Schedule C to the *Employment and Assistance For Persons With Disabilities Regulation* (“EAPWDR”), as required by section 62 of the EAPWDR;
- was not among the medical supplies described in section 2 of Schedule C to the EAPWDR, as required by section 62 of the EAPWDR; and
- was not eligible as a supplement under either section 69 or section 57 of the EAPWDR.

Part D – Relevant Legislation

EAPWDR, sections 57, 62, and 69, Schedule C - sections 2, 3, and 3.1 through 3.12

Part E – Summary of Facts

The Appellant is a recipient of medical services only assistance. The Information before the Ministry at the time of the Reconsideration Decision included:

- a referral note from the Appellant’s doctor, dated July 21, 2021 (the “Referral”), for a number of items, including the BP Cuff;
- a letter from the Ministry to the Appellant, dated September 13, 2021, denying funding for the BP Cuff;
- the Appellant’s Request for Reconsideration, dated November 21, 2021 (“RFR”), including a handwritten note from the Appellant which set out that the Appellant:
 - had been bed ridden with for over 4 months with rheumatic fever as a child;
 - was diagnosed with a heart murmur as a child;
 - completed a 2 year diploma in [REDACTED] and worked in the military before having to stop because of health issues;
 - completed a bachelor of education at the University of [REDACTED] and taught at a junior college [REDACTED] and later taught math and elementary school in [REDACTED]
 - relocated to British Columbia so that the Appellant’s children could attend school here;
 - described working 14 to 16 hours days, 7 days a week causing emotional health issues;
 - started receiving disability assistance in 1995 and a CPP disability pension in 1998; and
 - was diagnosed with congestive heart failure in January, 2011.

In the Appellant’s Notice of Appeal, December 20, 2021, the Appellant did not set out any specific reasons for disagreeing with the Reconsideration Decision.

At the hearing of the appeal, the Appellant described being a person who believes in self responsibility and not one to expect something for nothing. The Appellant was born in [REDACTED] and had a military career that was cut short by health issues which the Appellant related to a heart murmur, which was diagnosed in the Appellant’s childhood, as described in the RFR. The Appellant subsequently became a teacher and self-employed marketer thereafter. For a time, the Appellant also worked passing out free newspapers in the early mornings and late afternoons at various locations.

The Appellant described having received CPP disability assistance and being in receipt of medical services only from the Ministry, including the receipt of the bus pass supplement.

The Appellant directed the panel to the Referral and advised that a cardiologist had also recommended the BP Cuff and the Appellant was certain that the Ministry had the letter from the cardiologist recommending the BP Cuff, even if it was not in the Panel Record for this appeal.

The Appellant was advised that the cost of the BP Cuff was between \$60 and \$100 but that the Appellant could get a 20% discount on certain days of the week as a senior.

The Appellant described getting easily worn out when walking but indicated that, in the absence of getting the BP Cuff, walking to the doctor’s office for blood pressure monitoring was the only other option.

The Appellant described having a private health insurance plan in place but had not confirmed whether the health insurance plan provided coverage for the BP Cuff.

The Ministry relied on the Reconsideration Decision and confirmed that the Ministry had no record of receiving a letter from the Appellant's cardiologist, which was also not in the panel record. The Ministry also advised that it believed that the Appellant's private health insurer provided coverage for the BP Cuff and that it would be advisable for the Appellant to ascertain whether coverage was available through the private insurer.

The panel accepts the oral evidence given at the hearing as evidence that was not part of the record but which is reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*. The ministry did not object to the panel admitting any of the new oral evidence presented by the Appellant at the hearing.

Part F – Reasons for Panel Decision***Issue Under Appeal***

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a supplement or any other funding for the BP Cuff on the basis that the BP Cuff:

- was not listed among the categories of medical equipment set out in sections 3.1 through 3.12 of Schedule C to the *Employment and Assistance For Persons With Disabilities Regulation* (“EAPWDR”), as required by section 62 of the EAPWDR;
- was not among the medical supplies described in section 2 of Schedule C to the EAPWDR, as required by section 62 of the EAPWDR; and,
- was not eligible as a supplement under either section 69 or section 57 of the EAPWDR.

Panel Decision

Section 62 of the EAPWDR authorizes the Ministry to provide health supplements in respect of the items set out in section 2 or section 3 of Schedule C to the EAPWDR to eligible recipients of disability assistance. In this case, the Appellant is eligible for the supplements provided for in section 3 of Schedule C to the EAPWDR by virtue of being a person in a family unit who is a continued person or, in other words, in receipt of medical services only assistance.

In addition to the above criteria, section 62 of the EAPWDR also requires that an item in respect of which a supplement is being sought must be among those set out in sections 2 or 3 of Schedule C to the EAPWDR. In other words, if an item is not among those set out in sections 2 or 3 of Schedule C, no supplement for that item can be provided by the Ministry.

Section 2 of Schedule to the EAPWDR sets out which general health supplements are eligible for coverage under section 62 of the EAPWDR.

Subsection (a)(i) of section 2 of Schedule C makes supplies used for the following purposes eligible for a supplement where the criteria in sections 2(1)(a)(ii) and 2(1)(a)(iii) of Schedule C to the EAPWDR are met:

- wound care;
- catheterization;
- incontinence;
- skin parasite care; and
- limb circulation care.

The BP Cuff is not used for any of the above purposes.

Subsection (a.1) of section 2 of Schedule C makes the following supplies eligible for a supplement where the criteria set out in sections 2(1)(a)(ii) and 2(1)(a)(iii) of Schedule C to the EAPWDR are met:

- lancets;
- needles and syringes;
- ventilator supplies; and
- tracheostomy supplies.

The BP Cuff is not a supply listed under subsection (a.1) of section 2(1) of Schedule C to the EAPWDR.

Subsection (a.2) of section 2(1) of Schedule C makes supplies that are required to thicken food eligible for a supplement where the criteria set out in sections 2(1)(a)(ii) and 2(1)(a)(iii) of Schedule C to the EAPWDR are met.

The BP Cuff is not a supply required to thicken food.

Subsection (c) of section 2(1) of Schedule C provides for a supplement to be paid for visits to an acupuncturist, chiropractor, massage therapist, naturopath, podiatrist, or physical therapy where other eligibility criteria are met. Again, the BP Cuff does not fall under any of these categories.

Finally, the other prescribed item provided for under section 2(1) of Schedule C is transportation costs related to visits for health care treatment, under subsection (f). The BP Cuff also does not fall under this category.

Unfortunately, the BP Cuff is not an item for which a supplement is available under section 2 of Schedule C of the EAPWDR.

Sections 3.1 through 3.12 of Schedule C to the EAPWDR list the medical equipment and devices for which supplements may be available to recipients of disability assistance who meet the eligibility requirements set out in section 3 of Schedule C to the EAPWDR.

The categories of equipment for which supplements may be provided are:

- under section 3.1, canes, crutches, walkers, and accessories thereto;
- under section 3.2, wheelchairs, upgraded components of wheelchairs, and accessories attached to a wheelchair;
- under section 3.3, a wheelchair seating system and an accessory to a wheelchair seating system;
- under section 3.4, a scooter, an upgraded component of a scooter, and an accessory attached to a scooter;
- under section 3.5, a grab bar in a bathroom, a bath or shower seat, a bath transfer bench with hand-held shower, a tub slide, a bath lift, a bed pan or urinal, a raised toilet seat, a toilet safety frame, a floor-to-ceiling pole in a bathroom or bedroom, a portable commode chair, a standing frame, a positioning chair, and a transfer aid;
- under section 3.6, a hospital bed, an upgraded component of a hospital bed, an accessory attached to a hospital bed, and a positioning item on a hospital bed;
- under section 3.7, a pressure relief mattress;
- under section 3.8, floor or ceiling lift devices;
- under section 3.9, positive airway devices, including, an apnea monitor, a suction unit, a percussor, a nebulizer, a medical humidifier, and an inhaler accessory device;
- under section 3.10, orthoses, including custom made or off-the-shelf orthotics, custom-made footwear, permanent modifications to footwear, off-the-shelf footwear, off-the-shelf orthopaedic footwear, an ankle brace, an ankle-foot orthosis, a knee brace, a hip brace, an upper extremity brace, a cranial helmet, a torso or spine brace, a foot abduction orthosis, a toe orthosis, and a walking boot;
- under section 3.11, hearing instruments; and
- under section 3.12, a continuous glucose monitoring system and a talking glucose monitor.

As with the items set out in section 2 of Schedule C to the EAPWDR, the BP Cuff does not fall within any of the items for which a supplement is available under sections 3.1 through 3.12 of Schedule C to the EAPWDR. Section 3 of Schedule C to the EAPWDR sets out the basic eligibility criteria for a supplement in respect of the items set out in sections 3.1 through 3.12 but to be eligible for a supplement an item must fall within one of those categories. The BP Cuff does not.

The panel finds that the Ministry reasonably determined that it did not have any legislative authority to provide a supplement under section 62 of the EAPWDR for the BP Cuff because it was not among the items set out in sections 2 and 3 of Schedule C to the EAPWDR.

While recipients of disability assistance may also be eligible for crisis supplements for certain items where the eligibility criteria in section 57(1) of the EAPWDR are met, section 57(3) of the EAPWDR expressly excludes coverage for any item set out in Schedule C to the EAPWDR (including, the items noted above that are eligible for coverage under section 62 of the EAPWDR) and any other health care goods or services. While the BP Cuff is not precluded from being provided as a crisis supplement by virtue of it being an item in Schedule C (it is not such an item), it is a health care good and, in the result, the Ministry is precluded from providing a crisis supplement in respect of it.

The panel finds that the Ministry reasonably determined that it did not have any legislative authority to provide a crisis supplement under section 57 of the EAPWDR for the BP Cuff because it is a health care good which is expressly excluded from being an item eligible for a crisis supplement.

Recipients of disability assistance can also be eligible for health care supplements in cases of life threatening need where specific criteria set out in section 69 of the EAPWDR are met. To be eligible for a health care supplement for a person facing a direct and imminent life threatening health need the following criteria must be met:

- 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;
- the health supplement is necessary to meet that need;
- a person in the family unit is eligible to receive premium assistance under the *Medicare Protection Act*; and
- the requirements specified in the following provisions of Schedule C, as applicable, are met:
 - paragraph (a) or (f) of section (2)(1); and
 - sections 3 to 3.12, other than paragraph (a) of section 3(1).

With respect to the first two criteria under section 69 of the EAPWDR, while the Referral does recommend a BP Cuff, it is not clear from the Referral and no evidence has been presented to confirm that the Appellant faces a direct and imminent life threatening need and that the BP cuff is required to meet a life threatening need.

The final criteria under section 69 of the EAPWDR is that the requirements of specific provisions of Schedule C are met.

Subsections (a) and (f) of section 2(1) of Schedule C to the EAPWDR, as noted above, were not met in that subsection (a) describes specific medical and surgical supplies that do not include the BP Cuff and subsection (f) refers to supplements for transportation, which also does not include a BP Cuff. Likewise, the BP Cuff does not meet the requirements of sections 3.1 through 3.12 of Schedule C as it is not among the categories of items for which a supplement is available.

The panel finds that the Ministry reasonably determined that it did not have any legislative authority to provide a supplement under section 69 of the EAPWDR for the BP Cuff on the basis of a direct and imminent life threatening health need because the requirements of section 69(d) have not been met. In view of all of the available evidence, the panel also finds that the Ministry was not unreasonable in its determination that failure to obtain the BP Cuff would not result in a direct and imminent threat to the Appellant's life as required by sections 69(a) and 69(b) of the EAPWDR.

The Appellant is not successful in this appeal.

Relevant Statutory Provisions

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.

(4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:

- (a) if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit;
- (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of
 - (i) the family unit's actual shelter cost, and
 - (ii) the sum of
 - (A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or
 - (B) the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D,
 as applicable, for a family unit that matches the family unit;
- (c) if for clothing, the amount that may be provided must not exceed the smaller of

- (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
- (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for the crisis supplement.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2, s. 2.]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4; am. B.C. Reg. 161/2017, App. 2, s. 2.]

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).

....

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

(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. [B.C. Reg. 75/2008, s. (a).]

(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.

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 — 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;
- (c) a 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;
- (c) an 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;
- (c) an 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;

(c) the 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;
- (c) a bath transfer bench with hand held shower;
- (d) a tub slide;
- (e) a bath lift;
- (f) a bed pan or urinal;
- (g) a raised toilet seat;
- (h) a toilet safety frame;
- (i) a floor-to-ceiling pole in a bathroom or bedroom;
- (j) a portable commode chair;
- (k) a standing frame 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;
- (c) an 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;
- (c) if 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;
- (e) if 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;
- (c) the minister is satisfied that the item is medically essential for the treatment of moderate to severe sleep apnea.

(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 (1) of this section is as follows:

- (a) in the case of an item referred to in subsection (1) (a) (i), 5 years from the date on which the minister provided the item being replaced;
- (b) in the case of an item referred to in subsection (1) (a) (ii) or (iii), one year from the date on which the minister provided the item being replaced;
- (c) in the case of an apnea monitor, suction unit, percussor, nebulizer or medical humidifier, 5 years from the date on which the minister provided the item being replaced;
- (d) in the case of an inhaler accessory device, one year from the date on which the minister provided the device being replaced;
- (e) in the case of an accessory or supply for an item referred to in paragraph (c) or (d), one year from the date on which the minister provided the device being replaced.

(4) A ventilator is not a health supplement for the purposes of section 3 of this Schedule.

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;
- (c) a permanent modification to footwear;
- (d) off-the-shelf footwear required for the purpose set out in subsection (4.1) (a);
- (e) off-the-shelf orthopaedic footwear;
- (f) an ankle brace;
- (g) an ankle-foot orthosis;
- (h) a knee-ankle-foot orthosis;
- (i) a knee brace;

- (j) a hip brace;
- (k) an upper extremity brace;
- (l) a cranial helmet used for the purposes set out in subsection (7);
- (m) a torso or spine brace;
- (n) a foot abduction orthosis;
- (o) a toe orthosis;
- (p) a walking boot.

(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,
- (c) the 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.

(3) For an orthosis that is a custom-made foot orthotic, in addition to the requirements in subsection (2) of this section, all of the following requirements must be met:

- (a) a medical practitioner or nurse practitioner confirms that a custom-made foot orthotic is medically required;
- (b) the custom-made foot orthotic is fitted by an orthotist, pedorthist, occupational therapist, physical therapist or podiatrist;
- (c) Repealed. [B.C. Reg. 144/2011, Sch. 2.]
- (d) the custom-made foot orthotic must be made from a hand-cast mold;
- (e) the cost of one pair of custom-made foot orthotics, including the assessment fee, must not exceed \$450.

(4) For an orthosis that is custom-made footwear, in addition to the requirements in subsection (2) of this section, the cost of the custom-made footwear, including the assessment fee, must not exceed \$1 650.

- (4.1) For an orthosis that is off-the-shelf footwear, in addition to the requirements in subsection (2) of this section,
- (a) the footwear is required to accommodate a custom-made orthosis, and
 - (b) the cost of the footwear must not exceed \$125.
- (4.2) For an orthosis that is off-the-shelf orthopaedic footwear, in addition to the requirements in subsection (2) of this section, the cost of the footwear must not exceed \$250.
- (5) For an orthosis that is a knee brace, in addition to the requirements in subsection (2) of this section, the medical practitioner or nurse practitioner who prescribed the knee brace must have recommended that the knee brace be worn at least 6 hours per day.
- (6) For an orthosis that is an upper extremity brace, in addition to the requirements in subsection (2) of this section, the upper extremity brace must be intended to provide hand, finger, wrist, elbow or shoulder support.
- (7) For an orthosis that is a cranial helmet, in addition to the requirements in subsection (2) of this section, the cranial helmet must be a helmet prescribed by a medical practitioner or nurse practitioner and recommended for daily use in cases of self abusive behaviour, seizure disorder, or to protect or facilitate healing of chronic wounds or cranial defects.
- (8) For an orthosis that is a torso or spine brace, in addition to the requirements in subsection (2) of this section, the brace must be intended to provide pelvic, lumbar, lumbar-sacral, thoracic-lumbar-sacral, cervical-thoracic-lumbar-sacral, or cervical spine support.
- (9) Subject to section 3 of this Schedule, the limit on the number of orthoses that may be provided for the use of a person as a health supplement for the purposes of section 3 of this Schedule is the number set out in Column 2 of Table 1 opposite the description of the applicable orthosis in Column 1.

Table 1

Item	Column 1 Orthosis	Column 2 Limit
1	custom-made foot orthotic	1 or 1 pair
2	custom-made footwear	1 or 1 pair
3	modification to footwear	1 or 1 pair
4	ankle brace	1 per ankle
5	ankle-foot orthosis	1 per ankle
6	knee-ankle-foot orthosis	1 per leg
7	knee brace	1 per knee
8	hip brace	1
9	upper extremity brace	1 per hand, finger, wrist, elbow or shoulder
10	cranial helmet	1

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11	torso or spine brace	1
12	off-the-shelf footwear	1 or 1 pair
13	off-the-shelf orthopaedic footwear	1 or 1 pair
14	foot abduction orthosis	1 or 1 pair
15	toe orthosis	1

(10) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of an orthosis is the number of years from the date on which the minister provided the orthosis being replaced that is set out in Column 2 of Table 2 opposite the description of the applicable orthosis in Column 1.

Table 2

Item	Column 1 Orthosis	Column 2 Time period
1	custom-made foot orthotic	3 years
2	custom-made footwear	1 year
3	modification to footwear	1 year
4	ankle brace	2 years
5	ankle-foot orthosis	2 years
6	knee-ankle-foot orthosis	2 years
7	knee brace	4 years
8	hip brace	2 years
9	upper extremity brace	2 years
10	cranial helmet	2 years
11	torso or spine brace	2 years
12	off-the-shelf footwear	1 year
13	off-the-shelf orthopaedic footwear	1 year
14	toe orthosis	1 year

(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.
- (e) Repealed. [B.C. Reg. 94/2018, App. 2, s. 1 (b).]
- (f) Repealed. [B.C. Reg. 144/2011, Sch. 2.]

(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.

(2) The minister may provide a hearing instrument under this section only if the person is not receiving a hearing assistance supplement under section 70.02 of this regulation.

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.

(3) The period of time referred to in section 3 (3) (b) of this Schedule with respect to replacement of a non-conventional glucose meter is 5 years from the date on which the minister provided the glucose meter 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)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2022/01/18

Print Name

Adeola Olulana

Signature of Member

Date (Year/Month/Day)

2022/01/18

Print Name

Simon Clews

Signature of Member

Date (Year/Month/Day)

2022/01/18