

**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, 2022, which determined that the appellant was not eligible for an increase of Reactine allergy medication.

Specifically, the ministry determined the appellant was not eligible for the requested increase of Reactine allergy medication under section 2 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) as a medical supply or extended therapy, as a medical supplement under Schedule C, section 3, as a supplement under any other section in Schedule C, as a Monthly Nutritional Supplement under section 67, as a supplement for a life-threatening need under section 69, or as a crisis supplement under section 57 of the EAPWDR.

**Part D – Relevant Legislation**

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR) Sections 57, 62, 67, 67.001 and 69.

Employment and Assistance for Persons With Disabilities Regulation Schedule C

**Part E – Summary of Facts****Summary of key dates and information before the minister at reconsideration:**

- September 27, 2022, the appellant contacted the ministry stating their allergies have worsened and they now require an increase from 40 to 60 Reactine tablets monthly.
- October 26, 2022, the appellant's pharmacy requested the appellant's standing authority for 40 Reactine be increased to 60 tablets monthly.
- November 9, 2022, the ministry denied the appellant's request.
- November 28, 2022, the appellant submitted a Request for Reconsideration. In Section 3 the appellant wrote they disagree with the ministry's decision to deny their request for 60 pills of 20 mg Reactine a month due to:
  - Without Reactine their life-threatening allergies would increase resulting in increased risk of anaphylactic shock.
  - It would increase their need to go to Emergency and Emergency is already in a critical situation.
  - It would be detrimental to their health.
  - The doctor has confirmed they must use the brand Reactine due to significant allergic reaction to other brands of allergic medications.
  - Reactine is their prescribed medication.
  - They are on Disability Assistance so to pay for the 20 extra pills would be a significant hardship.
  - Their allergies are a lifetime condition.
  - They have Asthma and Reactine improves their breathing and lessens their attacks.
- December 13, 2022, the ministry completed its review of the Request for Reconsideration.

**Documents submitted by the appellant included:**

- A prescription from the appellant's doctor dated October 12, 2022, prescribing an increase in extra strength Reactine from 40, 20 mg tablets to 60, 20 mg tablets a month due to life-threatening allergies. The doctor notes, this is a lifetime illness, brand name only, no substitutions.
- A fax from the appellant's pharmacy dated October 12, 2022, requesting new authorization for the appellant's increase of their standing prescription of 40 tablets of Reactine a month to 60 tablets a month.

**Notice of Appeal**

- In Reasons for Appeal dated December 14, 2022, the appellant states:
  - They are not able to pay for the increase cost of the additional tablets which are a requirement as their allergies are life-threatening.
  - Without the increase of tablets, they would have more chance of severe asthma attacks and would end up in the ER.

**At the hearing the appellant's advocate stated:**

- In 1996 a tribunal decision granted the appellant funding for purchasing over-the-counter medication Reactine.
- The appellant has severe allergies which requires an increase in the dosage of Reactine.
- The appellant's doctor has prescribed the increased dosage of Reactine to address the appellant's "life threatening" allergies.
- The appellant has other medical issues requiring medications which are not covered, adding additional burden to their finances.
- The appellant has been receiving financial help from their sister as they can not meet the monthly expense of purchasing the medication not covered by the ministry and the sister is no longer able to provide financial assistance.
- The appellant has a life-threatening condition which will last their lifetime and they require this specific medication, Reactine.
- The appellant's doctor has requested an increase of medication as the appellant's allergies have worsened causing increased shortness of breath.

**Responses to questions asked of the appellant**

- When asked if the appellant had requested PharmaCare to cover the cost of the new prescription, the appellant responded they did not believe so and could not remember.

**At the hearing the ministry representative stated:**

- The appellant has been covered for the cost of 40 tablets of 20 mg of Reactine since the tribunal decision issued in 1996.
- The reconsideration decision is based on the current legislation which does not include the coverage of over-the-counter allergy medication.
- The ministry does not have the regulatory authority to cover the cost of the over-the-counter medication, Reactine.
- When considering the request for an increase of the medication Reactine, the ministry must find a category in the regulations that supports the appellant's request. Although several regulations were considered, the ministry was unable to find a supplement in the regulation that authorizes the appellant eligibility for funding of the medication Reactine.

**Responses to questions asked of the ministry representative**

- When asked if all doctor issued prescriptions are covered for clients designated as a Person with Disabilities and in receipt of disability assistance the ministry representative responded no, only prescriptions which are eligible in the regulations are covered.
- When asked if PharmaCare covers the cost if a prescription is given by the appellant's doctor, the ministry representative responded that PharmaCare decisions do not fall under their jurisdiction. The ministry representative was not familiar with the PharmaCare process and stated it was not the ministry's position to advocate for or to inform about PharmaCare coverage, rather the appellant could pursue the option to approach PharmaCare to obtain coverage of the new prescription.

## Part F – Reasons for Panel Decision

### Appeal Issue

The issue under appeal is whether the ministry's determination the appellant was not eligible for funding of over-the-counter medication was a reasonable application of the legislation in terms of the appellant's circumstances.

### Positions

#### Appellant

The appellant argued the ministry was not reasonable in their decision to deny funding to cover the cost of the doctor prescribed medication as they have a life-threatening condition that will last a lifetime and they cannot afford to purchase the medication.

#### Ministry

Although the appellant is eligible for 40 tablets monthly for Reactine through a "grandparent" process which maintains the terms and conditions in accordance with a 1996 tribunal decision, there is no legislative provision which would enable the amount of the appeal award provided to be revised or adjusted. Therefore, the appellant's request for 20 additional tablets of Reactine was considered by the ministry separately from the 1996 appeal award. The request for funding was denied as the appellant did not meet the eligibility requirements of the EAPWD Regulations Sections 57, 62, 67, and 69.

#### Panel Finding

The panel found the ministry's decision that the grandparented appeal award cannot be revised was a reasonable application of the legislation.

### Eligibility for funding for 20 tablets of Reactine 20 mg monthly

- **EAPWD Regulation, Section 62, Schedule C, section 2(1)(a), (a.1) and (a.2)**
  - Section 2(1)(a) of Schedule provides for supplements for medical or surgical supplies. However, section 2(1.1) sets out that for the purpose of subsection (1)(a), medical and surgical supplies do not include nutritional supplements, food, vitamins, minerals or prescription medications. The panel finds the ministry was reasonable in denying the appellant funding for Reactine as a medical supply.
  - Further, medical supplies are only available for certain purposes. The panel finds the ministry was reasonable in determining the appellant does not meet the eligibility criteria set out under section 2(1)(a) Schedule C as the appellant does not require Reactine for wound care, ongoing bowel care required due to loss of muscle function, catheterization, incontinence, skin parasite care, or limb circulation care.
  - Section 2(1)(a.1) provides for supplements for certain other medical and surgical supplies. The panel finds that the ministry was reasonable in determining the medication Reactine is not lancets, needles and syringes, ventilator supplies required for essential operation or sterilization of a ventilator, or tracheostomy supplies, as permitted under section 2(1)(a.1) of Schedule C.

- Section 2(1)(a.2) provides for supplements for certain consumable medical supplies provided they are required to thicken food. The panel finds that the ministry reasonably determined that Reactine is not a consumable medical supply required to thicken food, as allowed under section 2(1)(a.2) of Schedule C.
- **EAPWD Regulation, Section 62, Schedule C, section 2(1)(c)- Extended Therapy**
  - Section 2(1)(c) sets out that the ministry may provide coverage for extended therapies. As over-the-counter allergy medication is not a medical therapy the panel finds the ministry was reasonable in determining the appellant's request could not be met under the legislation for extended medical therapies.
- **EAPWD Regulation, Section 62, Schedule C, section 3- Medical equipment**
  - Section 3 sets out the general requirements for all equipment/devices. As over-the-counter allergy medication is not medical equipment/device, the panel finds the ministry was reasonable in determining the appellant's request could not be met under the legislation for medical equipment and devices.
- **EAPWD Regulation, Section 62, Schedule C, sections 2.1, 2.2, 4, 4.1, 5, 6, 8, and 9**
  - These sections provide for: optical supplements, eye examination supplements, dental supplements, crown and bridgework supplements, denture supplements, emergency dental supplements, diet supplements, natal supplements, and infant formula. As medication is not included in these sections, the panel finds the ministry was reasonable in determining the appellant's request could not be met under these legislation sections.
- **EAPWD Regulation section 67 and 67.001- nutritional supplement**
  - Section 67 provides for a monthly nutritional supplement to alleviate symptoms of a chronic progressive deterioration of health in certain circumstances. Section 67.001 provides for or a short-term nutritional supplement for an acute short-term need. As medication is not included in the supplements, the panel finds the ministry was reasonable in determining the appellant's request could not be met under section 67 or 67.001of the EAPWD Regulation.
- **EAPWD Regulation Section 69- health supplement for a person facing specific direct and imminent life-threatening health needs.**
  - Section 69 provides for a supplement for any health supplement listed in sections 2(1)(a) and (f) and 3 of Schedule C where there is a life-threatening need and the applicant is otherwise ineligible. As the appellant request for funding of Reactine is not one of the supplements included in section 3 or section 2(1)(a) of Schedule C as noted above and, is not transportation which is provided in section 2(1)(f) of Schedule C, the panel finds the ministry was reasonable in determining the appellant's request could not be met under section 69 of the EAPWD Regulation.
- **EAPWD Regulation Section 57(1)- Crisis Supplement**
  - As no evidence was given that the increased medication was unexpected and as Section 57(3) stipulates 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, as over-the-counter medication would be considered a health care good, the panel finds the ministry was reasonable in determining the appellant's request could not be met under section 57 of the EAPWD Regulation.

## Conclusion

The panel finds the ministry's decision to deny the appellant funding for additional over-the-counter medication was reasonably supported by the evidence and confirms the ministry's reconsideration decision. The appellant is not successful in their appeal.

## Applicable 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.

(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) Repealed. [B.C. Reg. 248/2018]

(6) Repealed. [B.C. Reg. 248/2018]

(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.

### **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.

### **Nutritional supplement**

**67** (1) The minister may provide a nutritional supplement in accordance with section 7 [*monthly nutritional supplement*] of Schedule C to or for a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the

family unit who

(a) is a person with disabilities, and

(b) is not described in section 8 (1) [*people receiving special care*] of Schedule A, unless the person is in an alcohol or drug treatment centre as described in section 8 (2) of Schedule A,

if the minister is satisfied that

(c) based on the information contained in the form required under subsection (1.1), the requirements set out in subsection (1.1) (a) to (d) are met in respect of the person with disabilities,

(d) the person is not receiving another nutrition-related supplement,

(e) Repealed. [B.C. Reg. 145/2015, Sch. 2, s. 7 (c).]

(f) the person complies with any requirement of the minister under subsection (2), and

(g) the person's family unit does not have any resources available to pay the cost of or to obtain the items for which the supplement may be provided.

(1.1) In order for a person with disabilities to receive a nutritional supplement under this section, the minister must receive a request, in the form specified by the minister, completed by a medical practitioner, nurse practitioner or dietitian, in which the practitioner or dietitian has confirmed all of the following:

(a) the person with disabilities to whom the request relates is being treated by the medical practitioner or nurse practitioner for a chronic, progressive deterioration of health on account of a severe medical condition;

(b) as a direct result of the chronic, progressive deterioration of health, the person displays two or more of the following symptoms:

(i) malnutrition;

(ii) underweight status;

(iii) significant weight loss;

(iv) significant muscle mass loss;

(v) significant neurological degeneration;

(vi) significant deterioration of a vital organ;

(vii) moderate to severe immune suppression;

(c) for the purpose of alleviating a symptom referred to in paragraph (b), the person requires one or more of the items set out in section 7 of Schedule C and specified in the request;

(d) failure to obtain the items referred to in paragraph (c) will result in imminent danger to the person's life.

(2) In order to determine or confirm the need or continuing need of a person for whom a supplement is provided under subsection (1), the minister may at any time require that the person obtain an opinion from a medical practitioner, nurse practitioner or dietitian other than the medical practitioner, nurse practitioner or dietitian referred to in subsection (1.1).



(3) Repealed. [B.C. Reg. 145/2015, Sch. 2, s. 8.]

[am. B.C. Regs. 317/2008, s. 8; 68/2010, ss. 1 and 2; 145/2015, Sch. 2, ss. 7 and 8.]

### **Nutritional supplement — short-term**

**67.001** The minister may provide a nutritional supplement for up to 3 months to or for a family unit in receipt of disability assistance or hardship assistance, if

(a) the supplement is provided to or for a person in the family unit who is not receiving another nutrition-related supplement, and

(b) a medical practitioner, nurse practitioner or dietitian confirms in writing that the person has an acute short-term need for caloric supplementation to a regular dietary intake to prevent critical weight loss while recovering from

- (i) surgery,
- (ii) a severe injury,
- (iii) a serious disease, or
- (iv) side effects of medical treatment.

### **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

#### 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.

### **Optical supplements**

**2.1** The following are the optical supplements that may be provided under section 62.1 [*optical supplements*] of this regulation:

- (a) basic eyewear and repairs;

(b) pre-authorized eyewear and repairs.

### Eye examination supplements

**2.2** The minister may pay a health supplement under section 62.2 [*eye examination supplements*] of this regulation for an eye examination that,

- (a) if provided by an optometrist, is provided for a fee that does not exceed \$44.83, or
- (b) if provided by an ophthalmologist, is provided for a fee that does not exceed \$48.90.

### 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

**Diet supplements**

**6** (1) The amount of a diet supplement that may be provided under section 66 [*diet supplements*] of this regulation is as follows:

- (a) \$10 for each calendar month for a person who requires a restricted sodium diet;
- (b) \$35 for each calendar month for a person who has diabetes;
- (c) \$30 for each calendar month for a person who requires kidney dialysis if the person is not eligible under the kidney dialysis service provided by the Ministry of Health Services;
- (d) \$40 for each calendar month for a person who requires a high protein diet;
- (e) \$40 for each calendar month for a person who requires a gluten-free diet;
- (f) \$40 for each calendar month for a person who has dysphagia;
- (g) \$50 for each calendar month for a person who has cystic fibrosis;
- (h) \$40 for each calendar month for which a person requires a ketogenic diet;
- (i) \$40 for each calendar month for which a person requires a low phenylalanine diet.

(2) A diet supplement under subsection (1) (d) may only be provided if the diet is confirmed by a medical practitioner, nurse practitioner or dietitian as being necessary for one of the following medical conditions:

- (a) cancer that requires nutritional support during
  - (i) radiation therapy,
  - (ii) chemotherapy,
  - (iii) surgical therapy, or
  - (iv) ongoing medical treatment;
- (b) chronic inflammatory bowel disease;
- (c) Crohn's disease;
- (d) ulcerative colitis;
- (e) HIV positive diagnosis;
- (f) AIDS;
- (g) chronic bacterial infection;

- (h) tuberculosis;
- (i) hyperthyroidism;
- (j) osteoporosis;
- (k) hepatitis B;
- (l) hepatitis C.

(3) A person who is eligible for a supplement under subsection (1) (d) or (f) is also eligible for a \$30 payment towards the purchase of a blender.

(4) If a person has more than one of the medical conditions set out in subsection (1), the person may receive only the amount of the highest diet supplement for which the person is eligible.

**Monthly nutritional supplement**

**7** The amount of a nutritional supplement that may be provided under section 67 [*nutritional supplement*] of this regulation is the sum of the amounts for those of the following items specified as required in the request under section 67 (1) (c):

- (a) for additional nutritional items that are part of a caloric supplementation to a regular dietary intake, up to \$165 each month;
- (b) Repealed. [B.C. Reg. 68/2010, s. 3 (b).]
- (c) for vitamins and minerals, up to \$40 each month.

**Natal supplement**

**8** The amount of a natal supplement that may be provided under section 68 [*natal supplement*] of this regulation is

- (a) \$45 for each calendar month for a period set out in section 68 (2), or
- (b) \$90 for each calendar month for a period set out in section 68 (2) if the person
  - (i) is pregnant with more than one child, as confirmed in writing by a medical practitioner, a nurse practitioner or a midwife, or
  - (ii) gives birth to more than one child.

**Infant formula**

**9** The minister may provide infant formula under section 67.1 of this regulation if

- (a) a medical practitioner, nurse practitioner or dietitian confirms in writing that
  - (i) the dependent child for whom a specialized infant formula is to be provided has a medical condition and the specialized infant formula is necessary to treat the medical condition, or
  - (ii) the dependent child for whom the infant formula is to be provided is at risk of contracting a disease that is transmissible through the mother's breast milk,
- (b) in the case of a dependent child described by paragraph (a) (ii), the



dependent child is under 12 months of age, and  
(c)the minister is satisfied that the infant formula is medically required to treat the medical condition or respond to the risk referred to in paragraph (a).

APPEAL NUMBER 2022-0312

**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

Charles Schellinck

Signature of Chair

Date (Year/Month/Day)

2023/01/24

Print Name

Carla Tibbo

Signature of Member

Date (Year/Month/Day)

2023/01/23

Print Name

Elaine Jeffery

Signature of Member

Date (Year/Month/Day)

2023/01/24