

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “ministry”) reconsideration decision dated April 11, 2023, where the ministry denied the appellant’s request for Roho mattress sections (Roho mattress). The ministry could not establish that the requested item is medically essential to

- prevent skin breakdown and maintain skin integrity; or
- facilitate transfers of a person to and from bed or to adjust or maintain a person’s positioning in bed.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation, Schedule C, sections 3.6 and 3.7

**Part E – Summary of Facts**

The appellant provided the following documents:

- o A Medical Equipment Request and Justification Form, dated June 28, 2022
  - A medical practitioner or nurse practitioner states the appellant's medical condition is "Ehler Danlos Syndrome"
  - They recommend "Roho mattress 3 large sections".
- o A letter by the appellant's occupational therapist dated September 14, 2022
  - "Difficulty walking long distance/ swollen legs/ back pain / difficulty sleeping in one position / difficulty standing long time."
  - "[The appellant is] living alone in a house. She finds it extremely difficult managing on her own but she manages to do her ADL on her own."
  - "Past medical history: Ehlers-Danlos syndrome / Coccydynia / Myofascial pain / Autism Spectrum disorder / ADHD / Irritable bowel syndrome / Osteoarthritis."
  - The appellant "has bilateral pitting edema to her legs."
  - The appellant "is unable to sit comfortably due to arthritic changes in her hip, sacrum and coccyx. Even with the specialty cushion she is only able to sit 10-15 minutes for meals. She is unable to drive long distance. She must change position frequently."
  - "At present [the appellant] has difficulty finding the comfortable position in sleeping, she has a ROHO over lay but it does not hold air any more she tried fixing multiple times but seems it does not hold any air. Because of disturbed sleep she is having chronic fatigue that affects her daily function."
  - "Equipment recommended: ROHO overlay: The client has severe joint pain which affects her ability to sleep, the client was using the ROHO over lay for the past 5 years and it had improved her quality of care tremendously. The current ROHO has leak and unable to fix the current ROHO. The client daily functioning depends on her sleep, the good rest (sleep) will also reduce the pain during the day time and will enable her to function better. The two main factors that contribute to good quality of life in Ehler's Danlos Syndrome is controlling the pain and improving the sleep pattern. The ROHO overlay can make significant change in the quality of life in clients with Ehler's Danlos Syndrome."
- o A Price Quote prepared by a medical equipment provider.
- o A reconsideration submission dated November 20, 2022
  - "In 2017 the pain and arthritis associated with my Ehler-Danlos Syndrome was making it impossible to get a good night's sleep. I contacted ... a very experienced

Occupational Therapist (who is now retired) and she came and completed an assessment and told me that the best bed for me would be a ROHO as it takes the pressure off of the joints and acts like a zero gravity mattress. Other zero gravity type mattresses would put too much pressure around my coccyx which was bent forward 70 degrees and surrounded by scar tissue.”

- “Once I received the mattress, I could finally get some more sleep. I have used the mattress for years and it is the only thing that is comfortable enough for me to sleep on. Now that I need a new one, the OT from [a medical equipment provider] agreed with [the retired OT’s] previous assessment and recommended 3 ROHO pieces. I have asked him for other options, but he seemed to think that the ROHO was best as I had had such success with it up until this point.”
- “I have had injuries and have arthritis in my neck, I have had injuries and have premature degeneration in my shoulders. I have arthritis in my Lumber spine and SI joints. I also have osteoarthritis in my hips. All of these conditions cause chronic pain. If I do not sleep well, the pain gets worse. Research has demonstrated the effectiveness of the ROHO for those with arthritis.”
- The appellant also provided links to websites discussing pain reduction.

From the ministry file:

- On October 20, 2022, the ministry spoke to appellant’s occupational therapist by phone. The OT advised that the appellant does not have skin integrity issues.

In her Notice of Appeal, the appellant writes:

“Roho mattresses have an abundance of support in the research for easing pain of arthritis sufferers. Using a ROHO bed has enabled me to sleep much better as I have arthritis and bursitis throughout my body. My OT has strongly recommended that I continue to use one.”

On May 1, 2023, the appellant provided a letter dated January 13, 2022, from another occupational therapist who writes:

- “Diagnoses: Ehler’s Danloss Syndrome, Autism Spectrum Disorder, ADHD, IBS, Osteoarthritis”
- As a result, the appellant suffers from chronic pain and sleep problems.
- “At present, [the appellant] has been able to find some comfort sleeping on a Roho mattress, yet even then she [is] disturbed by pain through night with waking to shift position. Between having disturbed sleep and her metabolic issues relating to the IBS, she is experiencing chronic fatigue.”

- The occupational therapist also describes the appellant's difficulties with mobility, digestion, toileting, meal preparation, bathing, shopping, housework, laundry, dressing, memory, stress, and anxiety.
- Their recommendations include: "Continue with any interventions that help with pain."

At the hearing the appellant repeated information she had previously given and added:

- Her joints are degenerating quickly.
- Her Central Nervous System is always in a state of alert.
- In 1917 her pain became intolerable.
- Both occupational therapists agreed that a Roho mattress is the best solution for the appellant's arthritic pain.
- A Roho mattress allows the appellant to travel.
- It is not possible to get a Roho mattress on loan.
- These mattresses are inflatable and wear out over time.
- To a question from the panel the appellant answered that she has no issues with skin integrity.
- To another question from the panel the appellant replied that her bed is not a hospital bed but a regular bed with the Roho mattress on top.
- Her former husband's health insurance plan covered the cost for her original Roho mattress.

The ministry presented a summary of the reconsideration decision.

- To questions from the panel the ministry replied that skin breakdown and loss of skin integrity means bed sores or shearing (a breakdown of tissue underneath the skin).
- There are no ministry benefits available for the appellant's specific health condition.

#### Admissibility of New Evidence

The panel finds that the letter of the other occupational therapist and the information of the appellant and the ministry at the hearing are reasonably required for a full and fair disclosure of all matters related to the decision under appeal. This information contributes to the panel's understanding of the circumstances surrounding the appellant's request for a Roho mattress. The panel therefore admits this information as evidence pursuant to section 22(4) of the Employment and Assistance Act.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the ministry's decision to deny the appellant's request for Roho mattress sections was a reasonable application of the legislation or reasonably supported by the evidence. Was the ministry reasonable when it could not establish that the requested item is medically essential to prevent skin breakdown and maintain skin integrity; or facilitate transfers of a person to and from bed or to adjust or maintain a person's positioning in bed?

**Appellant Position**

The appellant argues she should be eligible for funding of a Roho mattress. This mattress gives her relief from chronic arthritic pain, and her occupational therapist recommends it as her best option. The legislation is too narrow and should include a Roho mattress. Research has proved that an inflatable mattress is the best sleep support.

**Ministry Position**

The ministry determined that the appellant is not eligible for funding for a Roho mattress. The appellant was requesting the pressure relief mattress for pain relief and comfort which does not fulfill the legislated purpose for funding. The mattress was not requested for the purpose of preventing skin breakdown and maintaining skin integrity.

The ministry determined further that it cannot be established that the appellant requires a Roho mattress to facilitate transfers to and from bed or to adjust or maintain positioning in bed.

**Panel Decision**

Section 3.7(1) of Schedule C sets out that funding for a pressure relief mattress may be available if the ministry is satisfied that the pressure relief mattress is medically essential to prevent skin breakdown and maintain skin integrity.

Section 3.6(1) of Schedule C sets out that funding for a hospital bed, an upgraded component of a hospital bed, an accessory attached to a hospital bed, or a positioning item on a hospital bed may be available if the ministry is satisfied that that the item is medically essential to facilitate transfer of a person to and from bed or to adjust or maintain a person's positioning in bed.

Based on the following evidence, the panel finds the ministry was reasonable when it denied funding for a Roho mattress:

- The appellant and her occupational therapist both stated that the appellant does not suffer from skin integrity issues.
- The appellant stated that her bed is a regular bed, not a hospital bed. The Roho mattress lies on top of her bed.
- There is no evidence that the appellant needs a Roho mattress to facilitate transfer to and from bed or to adjust or maintain positioning in bed.

The panel finds further that a Roho mattress is neither a hospital bed, nor an upgraded component of a hospital bed, nor an accessory attached to a hospital bed, nor a positioning item on a hospital bed.

### **Conclusion**

The panel acknowledges the appellant would benefit from a Roho mattress for pain relief. Unfortunately, section 3.7 of Schedule C only considers prevention of skin breakdown and maintenance of skin integrity. The legislation does not provide funding for a pressure relief mattress for arthritic pain. As the legislation stands, the panel finds the ministry was reasonable when it determined that the appellant was neither eligible for a Roho mattress under to section 3.7 nor under section 3.6 of Schedule C. The ministry's reconsideration decision is confirmed, and the appellant is not successful on appeal.

## EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

### SCHEDULE C

#### 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.

APPEAL NUMBER 2023-0103

**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

Inge Morrissey

Signature of Chair

Date (Year/Month/Day)

2023/05/13

Print Name

Kent Ashby

Signature of Member

Date (Year/Month/Day)

2023//05/13

Print Name

Richard Franklin

Signature of Member

Date (Year/Month/Day)

2023/05/13