

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the Ministry) reconsideration decision dated September 28, 2023, which denied the appellant's request for reimbursement of a stairlift. The ministry found that the item requested is not an eligible item pursuant to the Employment and Assistance for Persons with Disabilities Regulation:

- Schedule C, including not a listed item as medical equipment or medical supplies
- Section 57, as a crisis supplement
- Section 69, as a life-threatening health need supplement

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (Regulation) section 57, 62, 69 and Schedule C

Part E – Summary of Facts

The Appellant is a recipient of disability assistance. His mother advocates for the Appellant and a Release of Information form is in the hearing record allowing her to speak on his behalf.

Information Before the Ministry at Reconsideration:

- An estimate from a Stairlift company quoting \$4400 for a stairlift, including installation and remotes.
- An estimate from a Mobility company quoting \$6,000 for a stairlift, which includes \$1,000 for an outdoor upgrade package.
- A denial letter from the Ministry's Health Assistance branch, dated July 31, 2023, citing the reason for denial is because the requested item, a stairlift, is not an eligible item.
- A Request for Reconsideration form submitted by the Appellant on September 14, 2023. The Appellant's mother wrote, as the reasons for requesting a reconsideration: (in summary)
 - A history of the Appellant's medical conditions, which started at birth and continue to the present, where he had a leg amputated in August, 2023.
 - The Ministry has approved numerous medical supplies and equipment since he received disability designation in the late 1980's or 90's. These include a scooter, hospital bed, raised toilet seat and bath chair.
 - It was getting harder and harder for him to manage the six stairs to their apartment, and on numerous occasions they called the firemen to lift him in and out of the apartment.
 - The Appellant's mother had been caring for him, but he fell in April 2023, and he had to be taken to the hospital where an additional medical condition was diagnosed. He stayed in the hospital for three months.
 - It took two paramedics and four firemen to lift him into the ambulance.
 - The Appellant had only two days notice prior to discharge from the hospital in July and his mother, who is a senior, cannot assist him to get in and out of the apartment. They cannot afford to move.
 - The Appellant's mother went to the Ministry office to enquire about a stairlift, and was told yes, and the request was sent in.
 - Because the stairlift was needed in a hurry, the Appellant's mother asked the Ministry if someone else could pay now, and they could be reimbursed when "Disability" agreed. She was told yes, so that is what they did.
 - The Appellant returned home from the hospital and prior to the stairlift being installed they had to use emergency services for seven days to get the Appellant in and out of the apartment, until it was installed.

- Within two weeks of the stairlift being installed, the Appellant's condition worsened and on August 4, 2023 his right leg was removed. He has more reason than ever to need a stairlift.
- The people who put the money out to have the lift installed, done as soon as possible because the Appellant was being discharged from hospital, really need their money back.
- If the Appellant's mother had not been told by the Ministry that, yes, a stairlift was considered medical equipment and she could be reimbursed, she would never have gone ahead to order it.
- Submitted with the Request for Reconsideration were:
 - The Appellant's mother's calendar diary for the months of March, May and July of 2023. The diary shows medical appointments and events regarding the Appellant. Relative to the timeframe regarding the request for a stairlift, the diary notes that on July 11, 2023 there was an appointment with the Ministry set for 1pm; the Appellant was "home" on July 13; and the stairlift was installed on July 20.
 - Seven pages labelled as "Assist to the public or other agency". It notes assistance at the Appellant's address was provided in March 2023 and on three occasions in July 2023.
 - A letter from the Appellant's doctor dated August 10, 2023. The doctor confirms the Appellant's medical conditions and states that given the Appellant's limited mobility he would have required mobility aids in the house to accommodate his disabilities, even before his above-knee amputation.
 - A letter from a Social Worker dated August 29, 2023. The Social Worker writes that because the Appellant has stairs at the entrance to his home, a stairlift is necessary to transfer in and out of the home safely. They write that this piece of equipment is crucial to his health to ensure he attends his hemodialysis appointments three times per week.

Information Submitted After Reconsideration

No additional information or reasoning was provided with the Notice of Appeal Form.

At the hearing, the Appellant's mother stated many of the points previously written in the reasons for requesting a reconsideration. She emphasized:

- The Ministry has helped the Appellant out a lot over the years because of his disability.
- When he was about to be released from hospital, with only two days notice, she went to the local office and spoke to the worker who handles disability files. This worker told her that, yes, a stairlift is considered medical equipment and that the worker's daughter has disabilities and the Ministry helped her with a stairlift. The worker then completed some kind of form, as they had done in the past, and said the request would go in that day.

- The Appellant's mother had a friend attend the appointment with her, and they asked the worker, because of the short notice, if they could pay for the stairlift in advance, would they be reimbursed. The Ministry worker told them, yes, they would be reimbursed, so the Appellant's mother went ahead and ordered the stairlift.
- The Appellant required help from emergency workers to get in and out of his apartment as he must attend dialysis daily. Once the lift was installed, he no longer had to call for help.

The Appellant's mother was asked if she had followed up on the suggestion the Ministry made in their cover letter of the reconsideration decision. The Ministry had referred the Appellant to the BC Housing Rebate Program. The Appellant's mother had not followed up and the Advocate had only just read this information now, when she received the Appeal Record.

When asked whether the worker at the local Ministry office had requested any doctor letters or whether they requested a form be completed, the Appellant's mother said, no, that the worker had filled out a piece of paper and told her the request would be sent in. She was not informed that anything was required from the doctor.

The Ministry did not attend the hearing.

Admissibility of Additional Information

The panel accepted the Appellant's mother's oral testimony as evidence under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue under appeal is whether the Ministry decision to deny reimbursement of a stairlift is reasonably supported by the evidence or is a reasonable interpretation of the legislation.

The Appellant's position is they did receive prior approval from the Ministry for a stairlift and were informed they could be reimbursed if they were to install it right away. They argue that a stairlift is a necessary piece of medical equipment that the Appellant needs to allow him to go in and out of his residence.

The Ministry did not attend the hearing, so the panel relied on the reconsideration decision as their position. The Ministry's position is that a stairlift is not included in the list of medical equipment or medical supplies under section 3 of Schedule C, or elsewhere in Schedule C. Therefore, they do not have the authority to provide funding for this item. The Ministry also determined the Appellant is not eligible for reimbursement for a stairlift as a life-threatening health need or as a crisis supplement.

Panel Decision

Section 62 of the Regulation allows the ministry to provide a recipient of disability assistance any health supplement set out in section 2 [*general health supplements*] or 3 [*medical equipment and devices*] of Schedule C, if the requirements under Schedule C are met. The appellant is a recipient of disability assistance.

The legislative authority for the ministry to assist with a health supplement for any kind of medical supply or equipment rests within the Regulation Schedule C. Section 2 (1)(a) sets out that the ministry may provide either disposable or reusable medical or surgical supplies if certain conditions are met and section 3 sets out the general requirements for all medical equipment and devices.

Section 2 (1) (a) sets out that the Ministry may authorize medical or surgical supplies that are either disposable or reusable, provided they are required for specific listed purposes. Section 2 (1 (a.1) lists specific supplies that may be provided under that section.

The Ministry argues that a stairlift is not a medical or surgical supply because it is not for any of the listed purposes for which a supply may be provided under section 2 (1)(a). The panel finds that the Ministry has reasonably decided that a stairlift is not a disposable or reusable medical or surgical supply, based on the need for supplies to be disposable or reusable, as opposed to the more permanent nature of an installed stairlift. Additionally, as "lifts" are referenced in section 3, and the Appellant considers a stairlift to be a necessary piece of medical equipment, the Panel will review section 3.

Section 3 (1) indicates that the medical equipment and devices described in sections 3.1 to 3.12 are the health supplements that may be provided by the Ministry if **all** the following requirements are met:

1. The family has received the pre-authorization of the minister for the medical equipment requested.
2. There are no resources available to the family to pay the cost.
3. The medical equipment is the least expensive appropriate medical equipment.
4. A prescription of a medical practitioner or nurse practitioner for the medical equipment or an assessment by an occupational therapist or physical therapist confirming the need for the medical equipment.

Panel review of the five requirements:

1. Pre-authorization

The Appellant's mother indicates that she spoke with a Ministry worker at their local office prior to purchasing one. The worker informed her that a stairlift is considered medical equipment and that it would be approved. The worker also informed her that they would be reimbursed if they went ahead and paid for it themselves. The Appellant's mother stated that the local worker told her that the worker's own daughter had disabilities and that a stairlift had been paid for by the Ministry. The Ministry was not on the call to clarify what information was passed along to the Appellant's mother at this appointment. On the Request for Reconsideration form, the Ministry wrote that the Appellant had been in the office on July 17, 2023 to request a stairlift, and that two quotes were submitted. They do not explain, as part of their decision, that information was missing, only that the requested item is not an eligible item.

The Appellant may have received misleading or incorrect information from the local office worker when they assured the Appellant that a stairlift is an approved piece of medical equipment, and that reimbursement would be made. However, as the Appellant is aware, (because they had received help in the past for other medical equipment), additional paperwork or prescriptions are required for medical equipment, as well as a higher level of authority than the local office. There is nothing in the Appeal Record to show specifically what "paperwork" was submitted, but it seems only the estimates were sent forward as the official request for a stairlift. The Appellant's mother was told the request was being sent in, so the panel finds this demonstrates that she was aware that the request was being sent up for approval, regardless of what the local office worker told her. Because the appropriate approval was not given before the Appellant paid for the stairlift, the panel finds that the request for a stairlift did not have pre-authorization.

2. No resources

The panel notes the cost of the stairlift is \$4400 and that the Appellant's mother indicates they did not have the resources to pay for it. The friend who did pay for the stairlift required the cost be repaid. The Ministry did not make a determination in their decision as to whether the Appellant had resources to pay the cost of a stairlift. However, in their cover letter to the decision, the Ministry noted that the Appellant may want to consider contacting BC Housing's Rebate for Accessible Home Adaptations and provided them with an online link and telephone number. This program provides financial help in the form of rebates to eligible low-income households to complete home adaptations for independent living. This could be a possible resource available to the Appellant.

3. The least expensive item

The Ministry did not make a determination as to whether the stairlift requested is the least expensive item.

4. A prescription from a prescribed medical practitioner/nurse practitioner or an assessment from an occupational or physical therapist

The ministry determined that the Appellant had not submitted a prescription from a medical or nurse practitioner, or an assessment from an occupational or physical therapist. At Reconsideration, the Appellant provided a letter from a Social Worker that indicates a stairlift is necessary to transfer in and out of the home safely. However, a Social Worker is not a medical or nurse practitioner. The Appellant provided a doctor's letter that confirms his medical conditions, and the doctor writes that given the Appellant's limited mobility he certainly would have required mobility aids in the house to accommodate his disabilities. However, the doctor does not specifically prescribe a stairlift.

The Appellant's mother indicated that at the time they requested the stairlift the Appellant did not have an occupational therapist, and that no Assessment was submitted. The local office did not mention that one was required. Once again, it is apparent that the Appellant was not provided with all the necessary information when the request for a stairlift was first made. However, the Panel must stay within legislation.

Therefore, the panel finds the Ministry was reasonable to determine there was no prescription from a medical or nurse practitioner or an assessment from an occupational or physical therapist for a stairlift provided, as required.

The following are the relevant sections of Schedule C, which specifically outline what the Ministry may, or may not, authorize. The panel finds that a stairlift is not an eligible piece of medical equipment.

Section 3.1 refers to canes, crutches and walkers. This is not applicable to a stairlift request.

Section 3.2 refers to wheelchairs. This is not applicable to a stairlift request.

Section 3.3 refers to wheelchair seating systems. These are related to items medically essential to achieve or maintain a person's positioning in a wheelchair. This is not applicable to a stairlift.

Section 3.4 refers to scooters. The Appellant already owns a scooter, and this section is not applicable to a stairlift request.

Section 3.5 refers to toileting, transfers and positioning aids.

- This section has a description for a "positioning chair" and specifically notes this does not include a lift chair. A lift chair is a recliner type chair that is used to help a person reach a semi standing position. This is not applicable to a stairlift request.
- This section has a description of a "transfer aid". One could consider a stairlift allows a person to transfer from a scooter to another chair at the bottom, however, the legislated definition of "transfer aid" sets out that it means a transfer board, belt or slider sheet which is medically essential to facilitate toileting or transfers of a person to maintain their positioning. It then goes on to list specific items that are covered:
 - 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 for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility
 - A positioning chair for a person for whom a wheelchair is medically essential to maintain basic mobility
 - A transfer aid for a person for whom the transfer aid is medically essential to transfer from one position to another.

This section is not applicable because a stairlift is not one of the items listed as a transfer or positioning aid.

Section 3.6 refers to hospital beds. This is not applicable to a stairlift request.

Section 3.7 refers to pressure relief mattresses. This is not applicable to a stairlift request.

Section 3.8 refers to floor or ceiling lift devices. A legislated definition is provided that indicates that a “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. It must also be medically essential to facilitate transfers of a person in a bedroom or a bathroom.

Although a stair “lift” can move a person from the top to the bottom of stairs, it is not a sling system that is attached to the floor and ceiling, nor is it used to transfer a person in a bedroom or a bathroom. This section is not applicable to a stairlift request.

Section 3.9 refers to breathing devices. This is not applicable to a stairlift request.

Section 3.10 refers to orthoses. This is not applicable to a stairlift request.

Section 3.11 refers to hearing instruments. This is not applicable to a stairlift request.

Section 3.12 refers to non-conventional glucose meters. This is not applicable to a stairlift request.

The ministry determined the appellant’s request for reimbursement of a stairlift could not be considered as a life-threatening health need under section 69 of the Regulation. The purpose of this legislation is to provide eligible items identified in sections 2(1)(a) and 3 of Schedule C, **for persons not otherwise eligible**, and who have a direct and imminent life-threatening health need.

The appellant **is** a person eligible to receive health goods under section 62 of the Regulation and is therefore “otherwise eligible”, if any requests for a health good met Schedule C requirements. Further, the panel finds that the only items that can be provided as a life-threatening health need, for those persons not otherwise eligible, are only those supplements listed under sections 2 and 3 of Schedule C. The panel finds the ministry was reasonable in determining the appellant is not eligible for reimbursement of a stairlift pursuant to section 69 of the Regulation.

The ministry determined the appellant’s request for reimbursement of a stairlift could not be considered as a crisis supplement under section 57 of the Regulation. A crisis supplement must meet the criteria of being for an unexpected item of need as well as requiring there be imminent danger to a person’s health. Section 57(3) stipulates that a crisis supplement may not be provided for the purpose of obtaining a supplement described in Schedule C or any other health care goods or services.

A stairlift is not a supplement described in Schedule C, however, because of the Appellant’s inability to go up and down stairs due to his medical condition a stairlift would be considered an

assistive device and a health care good. Health care goods may not be provided as a crisis supplement. Therefore, the panel finds the Ministry was reasonable to determine that reimbursement of a stairlift cannot be considered as a crisis supplement.

Conclusion

The panel finds the ministry's reconsideration decision, which determined that the appellant was not eligible for reimbursement of a stairlift was a reasonable application of the legislation and therefore confirms the decision. The appellant is not successful in his appeal.

RELEVANT LEGISLATION**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.

General health supplements

- 62** The minister may provide any health supplement set out in section 2 [*general health supplements*] or 3 [*medical equipment and devices*] of Schedule C to or for
- (a) a family unit in receipt of disability assistance,
 - (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or
 - (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Health supplement for persons facing direct and imminent life threatening health need

- 69** 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 legislation, 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).

Regulation 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;

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.

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.

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.

APPEAL NUMBER 2023-0316

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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2023 November 1

Print Name

Linda Pierre

Signature of Member

Date (Year/Month/Day)

2023 November 1

Print Name

Melissa McLean

Signature of Member

Date (Year/Month/Day)

2023 November 1