

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“Ministry”) dated January 22, 2024, in which the Ministry denied the Appellant’s request for a Rovi A3 power wheelchair with power standing, power adjustable seat height, power recline, power elevating leg rest, lighting system and cup holder.

The Ministry was not satisfied that the power wheelchair requested was the least expensive equipment appropriate for the Appellant’s needs, or that the power features and requested accessories were medically essential to achieve or maintain basic mobility.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (“Regulation”), section 62 and Schedule C, sections 3, 3.2, 3.3 and 3.5(1)(k) and (2)

Employment and Assistance Act (“Act”), section 22(4)

Full text of the legislation is provided in the Schedule of Legislation after the Reasons.

Part E – Summary of Facts

The Appellant attended the hearing with Occupational Therapist #1, who also acted as her Advocate, Occupational Therapist #2, a caregiver, and a family member as support people. The Ministry attended by telephone.

Evidence Before the Ministry at Reconsideration:

The Appellant has been designated as a person with disabilities and receives disability assistance.

The Appellant has a power wheelchair, provided by the Ministry, that needs extensive repairs and must be replaced. In August 2023, the Ministry approved funding for a power wheelchair with power tilt, at a cost of \$14,914.72. However, the Appellant applied for a power wheelchair with power standing, power adjustable seat height, power recline and power elevating leg rests, with a lighting package and folding cup holder, for a cost of \$42,370.48.

The Appellant also has a standing frame, provided by the Ministry, that is 18 years old and also needs to be replaced. The Appellant uses the standing frame every day. She has to be transferred into the standing frame by one to two caregivers using an overhead lift and a sling. The Appellant provided an estimate for a standing frame that costs \$10,044.52 but asked the Ministry to provide the wheelchair with power standing function instead, as it replaces the need for a separate standing frame.

Occupational Therapist #2 provided a Seating Assessment, which states:

- The Appellant has developmental disability, intellectual disability, cerebral palsy, spastic quadriplegia, scoliosis, and osteoporosis.
- The Appellant is in the wheelchair 16 to 18 hours a day.
- The Appellant has poor trunk support and poor joystick position in her current power wheelchair.
- The Appellant has back pain in the lumbar area and pain in the sitting bones.
- The Appellant's caregivers attend three times a day.
- The Appellant has a standing frame that is more than 10 years old, is in poor condition and is very difficult to transfer into, requiring caregiver support.
- The Appellant is employed in an administrative capacity three days a week.
- In a trial of the Rovi A3 power wheelchair ("Rovi A3"), the Appellant was able to tolerate standing for more than 20 minutes and was able to drive inside and outside her home in standing position.

- With the Rovi A3, the Appellant can independently position herself from sitting, semi-sitting and laying back throughout the day to adjust position and relieve pain in her sitting bones and lumbar spine.
- In standing position, the Appellant has decreased pressure on her sitting bones and decreased pain in her lower back.
- Without the tilt feature, the Appellant is at risk of pressure injuries.
- The Appellant needs the standing feature because her current standing frame is in poor condition and needs replacement. It is also very difficult to get into, and she needs help to use it.
- Health benefits of standing are multiplied when the person is able to stand independently multiple times during the day, rather than once for a prolonged period.
- Health benefits of standing include:
 - Enhanced independence and productivity
 - Enhanced psychological well being
 - Improved spinal alignment and upper trunk extension, and reduced kyphosis
 - Reduced abnormal muscle tone and spasticity, including in upper arms due to better skeletal alignment in standing, which can improve arm/hand movement, as well as speech
 - Improved gastrointestinal capacity and functioning, and reduced constipation
 - Reduced occurrence of skeletal deformities including contractures and reduced range of motion of hips, knees, and ankles
 - Improved passive range of motion
 - Maintaining bone mineral density
 - Reduced occurrence of pressure sores by fully offloading tissues
 - Lesser or delayed occurrence of respiratory complications and improved respiratory volume.
- For the Appellant, independent power standing will lessen the risk of developing pressure sores and further skeletal deformities, losing joint range of motion and bone density, experiencing constipation, and developing respiratory complications.
- There are significant psychosocial and mental health benefits from being able to stand at eye level with others.

Ministry file notes of communications between the Ministry adjudicator and Occupational Therapist #2 state:

- The Appellant's standing frame is so old that spare parts are not available, and it cannot be repaired.
- The Appellant can only use her existing standing frame once a day because she needs help to get into the standing frame with a sling, an overhead lift, and a support worker.
- The Appellant can only use the existing standing frame in her bedroom.

- With the power standing function, the other power functions of tilt and recline and elevation, including elevating leg rests, are not optional features, but are required for the power standing function to operate.
- With horizontal recline, the Appellant will be able to lie flat as she gets toileted and changes her pullup, when she is out in the community without an overhead lift and change table.
- The tray requested is necessary if the Appellant has the power standing function, because the tray has to articulate and change position as the Appellant moves from seated to standing.

In a written statement submitted with the Request for Reconsideration, the Appellant states:

- She has been diagnosed with cerebral palsy and is not able to walk or stand on her own.
- Being able to stand on her own will improve her independence, as well as her circulation and digestive system.
- The standing feature “will allow me to stand anywhere at any time”.
- Sitting for 16 to 18 hours a day without changing positions is not good for her health.
- She would use the standing function regularly.
- With the power standing function, she would be able to use a standing desk at her work and would be able to reach items on her desk without having to ask colleagues for help with things like turning her lamp on and off.
- If she can interact with others at eye level, she will have improved confidence and self esteem.
- With the power standing function she would be more independent at home, able to open and access the fridge, kitchen cabinets and shelves, and bookshelves.

Additional Evidence:

Appellant:

On appeal, the Appellant provided the following additional evidence:

Appellant’s written statement, repeating most of the information in the written statement provided at reconsideration, and adding:

- With her existing standing frame, she can only stand in her bedroom because the standing frame is too bulky to move around the house.
- She spends most of the day, 16 to 18 hours, in her power wheelchair.
- She can only use the standing function for 30 minutes at a time, so at other times she could use the seat elevation and tilt functions.
- Seat elevation would make her independent with grocery shopping.
- With the recline function, caregivers could change her pullups in the power wheelchair, which would mean that she could stay out longer in the community.

Letter from Occupational Therapist #2 dated September 12, 2023, addressed to "Alternate Funder", providing the following information in addition to the information in the Seating Assessment:

- The Appellant is "totally dependent on a mechanical lift and slings for all transfers".
- The Appellant is "fiercely independent as much as possible, but requires assist with all [basic activities of daily living]."
- The Appellant has trialed a number of replacement chairs, and the Rovi A3 with power standing, elevation, tilt in space, and recline, best fits her needs.
- The standing function on the Rovi A3 automatically comes with the seat elevation feature.
- The seat elevation feature will allow the Appellant to access areas at her home that are now out of reach. "Simple tasks like opening the fridge, reaching kitchen cabinets, shelves and bookshelves would become achievable. This independence extends to grocery shopping, as she would be able to handle items on the store shelves herself."
- The Appellant has shown "exceptional dedication" to using her current standing frame every day for over a decade.
- With the standing function "she would not be confined to only standing once a day, and in her bedroom only."
- Two occupational therapists and a physiotherapist recommend the Rovi A3.

Medical Certificate from a doctor, dated February 14, 2024, stating that the Appellant suffers from osteoporosis "and would benefit from a powered standing chair which would provide additional opportunity for exercise as compare [sic] to her present powered sitting chair."

Letter from a Physiotherapist, undated, stating:

- They have worked with the Appellant for eight years.
- The Appellant's physical impairment makes independent standing unsafe and not possible.
- The Appellant has used a stationary standing frame 1 – 2 times a day for approximately 20 – 25 minutes at a time, in her bedroom at home, for the past ten or more years.
- "Standing is a very important part of [the Appellant's] therapy and physical function as it allows her to be in a safe position that allows her to weight bear through her lower

extremities, get into a different position where she can stretch out her legs from her regular sitting position as well as exercise and interact with her friends and family and environment from a standing position.”

- When the Appellant does not have trained staff available to transfer her to the standing frame, she cannot get into the standing frame and “thus on those days has no opportunity to assume a standing position.”
- The Appellant is limited to using the standing frame in her bedroom, away from her work and social environment.
- If the Appellant has the power wheelchair with standing function, she will be able to choose to stand whenever she wishes to do so, including at her office.
- Benefits of standing are well-documented, and include:
 - weight bearing, which promotes bone density
 - respiratory, keeping her lungs clear
 - gastro-intestinal, aiding digestion, preventing constipation and helping bowel function
 - decreasing pain in her back and joints.
- The Appellant will need a new standing frame in the next year, at a cost of over \$10,000.
- “Integrating a standing function onto [the Appellant’s] wheelchair would be absolutely life changing for her and provide her with independence and freedom of choice to safely stand up whenever she chooses.”

At the hearing, the Appellant repeated some of the information in the written reports, and also stated:

- All she can do to change position in her current power wheelchair is recline 45 degrees to relieve pressure on her back, and now she has back issues.
- She has osteoporosis in her low back and hips.
- She needs two staff to move her into the current standing frame, and because their visits are time-limited, if they take longer with her personal care, she can only stand for 10 to 15 minutes in a day, or sometimes not at all.
- Her family has to get things out of the cupboards for her, and if she needs something when they are not there, she has to wait for someone to get home, to reach it for her.
- She cannot get food out of the fridge by herself in her power wheelchair, and if no one is home to help her, she cannot eat until they get home.
- She is supposed to elevate her legs because she has circulation issues in her lower extremities, and she cannot do that in her current power wheelchair.

In answer to questions from the Panel, the Appellant stated:

- She goes shopping with her parent and a caregiver because she cannot reach things on the shelves, but if she had the power standing function, she could go shopping by herself and get what she needs from higher shelves.
- Without the power standing function, she cannot do “any normal things” in the kitchen, or reach food from the fridge, without a safety risk. With the power standing function, she could prepare her own meals and get water from the sink. She would not have to wait for someone to get home to be able to eat.
- The power wheelchair that the Ministry approved in August 2023 is a standard power wheelchair with a 45 degree tilt function that will not benefit the Appellant in the long term.
- She approached three “alternate funders” to provide the Rovi A3, and two out of three offered her only \$750.
- She needs the lighting feature, which includes headlights, tail lights and turning lights, for safety, as she has fallen off the sidewalk in the past.
- The cup holder would let her hold her own drinks instead of relying on others to get her water bottle out of her backpack.

Occupational Therapist #1 stated:

- All the components of the Rovi A3 that the Appellant is requesting are necessary for the power standing function; none are optional or separate from the power standing function.
- The power standing function is considered to be a standing frame.
- The Rovi A3 is a medically necessary device to prevent future deformity.
- Without the power standing function, the Appellant’s condition will deteriorate as she ages.
- We stand to access “40 percent of the world” so the Rovi A3 is necessary for the Appellant’s basic mobility.

Occupational Therapist #1 also reviewed an article from the Rehabilitation Engineering and Assistive Technology Society of North America (“RESNA”), which was provided as part of the Appellant’s written submission, setting out the reasons that a wheelchair standing device is often medically necessary. In the Appellant’s circumstances, referring to the article, Occupational Therapist #1 highlighted:

- The Appellant needs to stand to get her bowels moving, and she needs to stand more frequently than she does now. Standing wheelchair users experience lesser or delayed occurrence of gastrointestinal complications, for example through improvement in gastric emptying.
- The standing function would improve the Appellant’s circulation and would prevent further loss of bone density.

- Dynamic loading in and out of standing position for different periods of time, which is possible with the power standing function, is more beneficial than a static standing position for a fixed period of time (as the Appellant has with her current standing frame).
- There is a medical benefit to going up and down without having to reach full standing position.
- The power standing function will also help the Appellant's problems with hand spasticity, as it relaxes the tone in her upper extremities.

In addition to the information provided in their written evidence, Occupational Therapist #2 stated:

- They are aware of the need to ration public resources, and in their opinion the Rovi A3 represents good use of those resources, because the Appellant is very careful with her equipment.
- The Rovi A3 is medically necessary and the least expensive device for the Appellant's needs.
- The Appellant has had her current standing frame for 18 years, which is an indication of the care she takes with her equipment.

Admissibility of Additional Evidence:

The Ministry did not object to the additional written and oral evidence of the Appellant and the occupational therapists, or the additional written evidence of the physiotherapist and the doctor. The Panel finds that the additional evidence provides further information about the equipment requested, the Appellant's medical condition and her ability to function with and without the Rovi A3. The Panel finds that the additional evidence is reasonably required for the full and fair disclosure of all matters in the appeal. Therefore, the Panel finds that the additional evidence is admissible under the Act, section 22(4).

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's reconsideration decision, denying the Appellant's request for a Rovi A3 power wheelchair with power standing, power adjustable seat height, power recline, power elevating leg rest, lighting system and cup holder, is reasonably supported by the evidence, or is a reasonable application of the legislation in the Appellant's circumstances.

Appellant's Position:

The Appellant says that the Rovi A3 is medically essential for her to achieve or maintain basic mobility, and is the least expensive medical equipment that is appropriate for her needs. She relies on the assessments by the two occupational therapists and the physiotherapist, explaining her medical need for the power standing function. She says that the power standing function will allow her to perform basic functions for herself, at home, at work and in the community, thus achieving or maintaining basic mobility.

Ministry Position:

The Ministry maintains that the Appellant's request does not meet the requirements under Schedule C, section 3 of the Regulation:

- The medical equipment requested is the not least expensive medical equipment appropriate for the Appellant's needs.
- The medical equipment requested is not medically essential to achieve or maintain basic mobility.

The Ministry says that it is less expensive to buy the power wheelchair that the Ministry approved in August 2023, and a separate standing frame. They argue that there is "no medical justification or assessment to indicate that the other power features or requested accessories are medically necessary for mobility or the least expensive appropriate for the Appellant's needs". The Ministry refers to its Policy and Procedure Manual, and says that "medically essential to achieve or maintain basic mobility" means that, due to a mobility impairment, the Appellant needs the equipment to perform her day-to-day activities in her home or community. The Ministry also argues that, while there are many benefits to standing, that function is not required for the Appellant to achieve or maintain basic mobility to enable her to complete her basic daily living activities.

Panel Decision:

The Panel finds that the Ministry's reconsideration decision, denying the Appellant's request for the Rovi A3, including the power standing function, power adjustable seat height, power recline, power elevating leg rest and lighting system, is not reasonably supported by the evidence. The Panel finds that the Ministry's decision to deny the Appellant's request for the cup holder attachment is reasonable.

The Ministry may provide a health supplement for medical equipment and devices permitted under Schedule C of the Regulation. The Ministry determined that the Appellant's request meets the following requirements under Schedule C, sections 3 and 3.2 of the Regulation:

- The Appellant is eligible to receive health supplements under section 62 of the Regulation.
- The Appellant is requesting pre-authorization for the medical equipment requested.
- The Appellant does not have resources available to pay the cost of or obtain the medical equipment.
- The Appellant has provided an assessment by an occupational therapist confirming the medical need for the equipment or device.
- The Appellant's current power wheelchair needs extensive repairs and needs to be replaced.
- The Appellant has had her current power wheelchair for more than the five year replacement period set out in Schedule C, section 3.2(3) of the Regulation.

However, the Ministry was not satisfied that the Appellant's request met two other requirements. Under Schedule C, section 3(1)(b)(iii), the medical equipment or device must be the least expensive appropriate medical equipment or device. Under Schedule C, sections 3.2, the Ministry must be satisfied that a wheelchair, upgraded component of a wheelchair, or an accessory attached to a wheelchair, is medically essential to achieve or maintain basic mobility. The Ministry was not satisfied that the Rovi A3 is the least expensive appropriate medical equipment, or that the Rovi A3 is medically essential for the Appellant to achieve or maintain basic mobility.

Medical Need for the Equipment or Device:

As stated above, at reconsideration the Ministry accepted that the Appellant had provided an assessment by an occupational therapist confirming the medical need for the Rovi A3. The Panel notes, however, that it appears contradictory to accept that the Appellant has a medical need for the mobility equipment requested, while at the same time determining that the equipment requested is not medically essential to achieve or maintain basic mobility. It may be that the Ministry was determining that the Appellant has established a medical need for a power

wheelchair generally, rather than a medical need for the Rovi A3, but that conclusion is not clear in the reconsideration decision.

Standing Frames:

Standing frames may be provided as a health supplement under Schedule C, section 3.5, where the standing frame is medically essential to achieve and maintain positioning. The occupational therapists confirm that the Appellant cannot stand independently. The Ministry has acknowledged the medical necessity of a standing frame, as it provided the Appellant's current standing frame 18 years ago. As the Appellant cannot stand without a standing frame, the Panel finds that a standing frame is medically essential to achieve and maintain the Appellant's positioning.

Occupational Therapist #1 confirmed that the power standing function in the Rovi A3 is considered to be a standing frame. They also confirmed that the other power functions in the Rovi A3 – the power adjustable seat height, power recline, power elevating leg rest – are necessary components included when the standing frame function is selected, and are not optional.

Necessary to Achieve or Maintain Basic Mobility:

Where the standing frame requested is also an upgraded component of a wheelchair, or an accessory attached to a wheelchair, it must also meet the requirement in Schedule C, section 3.2, that the item is medically essential to achieve or maintain basic mobility. The Panel has reviewed the Ministry's policy for medical equipment and devices, which is not binding on the Panel, but which the Panel may consider when determining if the Ministry's decision is reasonable.

The Ministry's policy states: ""Medically essential to achieve or maintain basic mobility" refers to a client's need for equipment due to a mobility impairment which is necessary to perform their day-to-day activities in their home and/or community." When determining if equipment is medically essential to achieve or maintain basic mobility, under Ministry policy the Ministry reviews assessments by occupational therapists and physiotherapists, and considers information about a number of factors, including:

- How the client mobilizes and performs day-to-day activities in their home and/or community
- The client's ability to mobilize once reaching a destination point
- Whether the medical condition would deteriorate without the equipment.

Ministry policy also states that "upgraded components may be considered if they are medically essential to achieve or maintain basic mobility".

At the hearing, the Ministry representative advised that it was not within the scope of their role to comment on whether the additional evidence met the criteria in the Ministry policy for determining if equipment is medically essential to achieve or maintain basic mobility.

The Panel finds that the Ministry's determination that the Rovi A3 was not medically essential for the Appellant to achieve or maintain basic mobility, is not reasonably supported by the evidence. In its reconsideration decision, the Ministry states that it is not satisfied that the Appellant needs the power standing function and related power features of the Rovi A3 to achieve and maintain basic mobility to enable her to complete her basic living activities. However, the Panel finds that the Ministry has not provided sufficient reasons for that conclusion, stating only that it is not satisfied on that point, and that medical information has not been provided to indicate that the components are medically essential for the Appellant to achieve or maintain basic mobility.

Apparently, the Ministry considered that the power wheelchair it approved in August 2023 was sufficient for the Appellant's basic mobility. While the power wheelchair the Ministry approved would transport the Appellant from one place to another, the Ministry does not appear to have considered how the Appellant functions when she reaches her destination. Nor does the Ministry appear to have considered how the Appellant performs day-to-day activities at her home, her workplace, or elsewhere in the community.

The Seating Assessment, with the information in the additional communication between the Ministry adjudicator and Occupational Therapist #2, does provide medical information about the medical need for the components of the Rovi A3. On appeal, the occupational therapists, the physiotherapist, and the Appellant provided additional written and oral evidence about the Appellant's ability to perform day-to-day activities at home and in the community. With the existing standing frame, the Appellant is limited to standing in one room of her house, because the standing frame cannot be moved from one room to another. As the Appellant must be transferred to the standing frame by one or two care workers, with the use of a sling and an overhead lift installed in her bedroom, her ability to stand is limited to that room. Her ability to stand is also limited by the availability of trained care workers, and the time they must spend providing personal care before she is transferred to the standing frame. The Appellant is not able to stand elsewhere, at home, in the community or at work. If she cannot stand, she cannot do ordinary day-to-day activities, such as get food out of the refrigerator, get herself a glass of water, or shop without a caregiver or family member to take her to the store and reach items on a shelf higher than she can reach when seated. She cannot reach items on her desk at work by herself and has to ask a colleague to turn her desk lamp on and off. With the power standing function, the Appellant could leave her home by herself, go to the store and purchase what she needs. She could get food and water by herself when she is alone at home, without having to wait for someone to return and get things for her. These activities are all basic day-to-day

activities that the Appellant cannot perform unless she has the power standing function on her wheelchair.

Further, the Panel finds that the health benefits from using the power standing function contribute to the Appellant's basic mobility. The Panel accepts the evidence of the occupational therapists, as experts in their field, that the ability to stand independently more frequently during the day will have considerable health benefits for the Appellant, including:

- Improved circulation
- Improved bowel function
- Prevention of further loss of bone density
- Reduced hand spasticity by relaxing tone in the upper extremities
- Alleviation of lumbar and pelvic bone pain
- Improved spinal alignment and upper trunk extension, and reduced kyphosis
- Reduced skeletal deformity due to muscle contracture.

The occupational therapists confirm that the power adjustable seat height, power recline and power elevating leg rest are components that come with the power standing function, and are necessary for the power standing function to operate. Therefore if the power standing function is medically essential for the Appellant to achieve or maintain basic mobility, the other power features must be included.

The Appellant has also requested a lighting system and a cup holder attachment for the Rovi A3. Under Schedule C, section 3.2 (1) of the Regulation, the Ministry must also be satisfied that those wheelchair accessories are medically essential to achieve or maintain basic mobility. The occupational therapists explained that the lighting system operates as headlights, tail lights and turning lights, when the Appellant is travelling at night. The Appellant has explained that she has fallen off the sidewalk in her power wheelchair because she could not see ahead of her in the dark. The Panel notes that safety issues when using medical equipment are a consideration under the Ministry's policy. Therefore, as there are safety issues for the Appellant operating the Rovi 3 after dark, the Panel finds that the lighting system is necessary for the Appellant's basic mobility.

However, the Panel finds that, while the cup holder would be a convenience for the Appellant and would allow her to have a beverage near to hand, a cup holder is not medically essential for the Appellant to achieve or maintain basic mobility. Therefore, the Panel finds that the Ministry was reasonable in its determination that the cup holder is not medically essential for basic mobility.

Least Expensive Appropriate Medical Equipment or Device:

The Ministry approved a power wheelchair with power tilt, but without a power standing function, in August 2023, at a cost of \$14,914.72. The estimate for the Rovi A3 is \$42,370.48, which, the Ministry points out, is more expensive than the cost of the approved wheelchair and a separate standing frame for \$10,044.52.

The occupational therapists have confirmed that the Rovi A3 is the least expensive equipment that is appropriate for the Appellant's medical needs. In the Seating Assessment, Occupational Therapist #2 confirms that the Appellant tried other equipment, and the Rovi A3 is the least expensive power wheelchair with power standing function that is appropriate for the Appellant's needs. They also confirmed that the other power functions come with the power standing function and are not optional.

The Panel finds that the Rovi A3 power wheelchair with power standing, power adjustable seat height, power recline, power elevating leg rest and lighting system, is medically essential for the Appellant to achieve or maintain basic mobility. The Panel accepts the evidence of Occupational Therapist #2, that the Rovi A3 is the least expensive appropriate medical equipment. Therefore, the Panel finds that the Ministry's determination that the Rovi A3 is not the least expensive appropriate medical equipment is not reasonably supported by the evidence.

Psychological Benefits:

The occupational therapists, the physiotherapist and the Appellant all explained the psychological benefits of the power standing function, as the Appellant would have a greater sense of independence, confidence, and self-esteem if she can interact with others at eye-level. While the Panel understands and accepts that the power standing function would give these benefits, under the legislation, both the Ministry and the Panel can only consider whether the requested medical equipment is medically essential to achieve or maintain basic mobility.

Conclusion:

The Panel finds that the Ministry's reconsideration decision, denying the Appellant's request for a Rovi A3 power wheelchair with power standing, power adjustable seat height, power recline, power elevating leg rest and lighting system, is not reasonably supported by the evidence.

The Panel finds that the Ministry's reconsideration decision denying the Appellant's request for a cup holder wheelchair attachment is reasonably supported by the evidence.

The Panel rescinds the reconsideration decision. The Appellant is successful in the appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Regulation

General health supplements

s. 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.

Schedule C

Health Supplements

Medical equipment and devices

s. 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 — wheelchairs

s. 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

s. 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 — toileting, transfers and positioning aids

s. 3.5 (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:

- (k) a standing frame for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;

(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.

Employment and Assistance Act

s. 22 (4) A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

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
Susan Ferguson

Signature of Chair

Date (Year/Month/Day)
2024/03/04

Print Name
Daniel Chow

Signature of Member

Date (Year/Month/Day)
2024/03/04

Print Name
Katherine Wellburn

Signature of Member

Date (Year/Month/Day)
2024/03/04