

**Part C – Decision Under Appeal**

The decision under appeal is the Reconsideration Decision of the Ministry of Social Development and Poverty Reduction ("Ministry") dated April 7, 2025, in which the Ministry denied funding for the purchase of a Q50 R carbon folding power wheelchair.

While the Ministry acknowledged that the Appellant may benefit from the provision of a Q50 R carbon folding power wheelchair, the Ministry determined that the Appellant's request does not meet the eligibility requirements outlined in sections 3(1) to (6) and 3.2 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

**Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation ("the Regulation"), section 62 and Schedule C, sections 3(1) to (6), and 3.2.

The full text of this legislation is in the Schedule of Legislation at the end of the Panel Decision.

## Part E – Summary of Facts

The hearing took place as a written hearing on August 21, 2025.

### Evidence Before the Ministry at Reconsideration

- The Appellant has been designated as a person with disabilities (PWD) and is in receipt of disability assistance.
- Previously, on December 18, 2018, the Ministry provided the Appellant with funding for a QM 710 Newcode power wheelchair.
- On October 28, 2024, the Ministry received a quote from National Seating and Mobility dated July 3, 2024, for a Q50 R carbon folding power wheelchair. A Medical Equipment Request and Justification form (HR2138) was mailed to the Appellant for completion by her Medical/Nurse practitioner.
- On November 19, 2024, the Ministry received a Medical Equipment Request and Justification form (HR2138), signed by the Appellant's Medical/Nurse practitioner on June 3, 2024. The form describes the Appellant's condition as paraplegia resulting from childhood poliomyelitis, notes that she is wheelchair dependent, and recommends a foldable or collapsible automatic power wheelchair. With the Appellant's request, she provided the previously submitted quote from National Seating and Mobility dated July 3, 2024, for a Q50 R carbon folding power wheelchair in the amount of \$4799.04.
- On November 26, 2024, the Ministry received a fax from Panorama Physiotherapy & Sports Clinic which included an HR 2138 signed by the Appellant on June 6, 2024, and her Medical/Nurse Practitioner on June 4, 2024. Additional information from her physiotherapist dated November 25, 2024, was provided with the form as follows:

Purpose: Request for power wheelchair – foldable

Current equipment: **manual wheelchair**

Limitations:

- Client complains of b/l rotator cuff (shoulder) pain. Reports progressive increase in pain levels.
- Unmanageable to use for long distances and inclines (shopping malls).
- Cannot transport the device in certain vehicles. (small sized cars)

Recommendations:

- Power wheelchair (foldable) to meet the above limitations.

Please call our office...if you need more information...25 Nov 2025...

- On January 13, 2025, the Ministry contacted the Appellant's physiotherapist by email to request additional information regarding the power wheelchair that was funded in December 2018. Specifically, the Ministry inquired about the current condition of the wheelchair, noting that only one repair has been recorded to date. The Ministry also

advised that a technician's report is required if the wheelchair is deemed non-repairable, or a repair quote should be provided if it is repairable.

- On January 21, 2025, the physiotherapist replied to the email advising: "Her current wheelchair is in working condition and there are no repairs pending due as reported by [the Appellant]. Her biggest concern is that she cannot travel in small cars as it does not fit."
- On January 22, 2025, the Ministry sent a response to the physiotherapist advising: "If the current wheelchair is in working condition, the Ministry would not replace it simply to travel in small cars. The Ministry is to provide for basic mobility and that need would be met if the current chair is still functioning. Please provide any further medical justification, a repair or tech report if applicable, or advise if a denial is requested."
- On January 30, 2025, the Appellant's physiotherapist replied to the email as follows:

I tried to collect more information from [the Appellant] and her responses are below:

- "1. Cannot travel in small cars
2. Both shoulders hurt if pushing for long distances
3. Her mother helps in pushing the wheelchair and she is getting old and cannot do the same thing for a long time.
4. She will contact her family doctor to send more information to the Government.

Current wheelchair has no repairs pending and there is no other new medical condition present."

- On January 30, 2025, the Ministry denied the Appellant's request.
- On March 18, 2025, the Ministry received the Appellant's Request for Reconsideration in which she indicated she required an extension. The Ministry approved her request for extension to April 7, 2025.

No additional information was provided by the Appellant in support of her Request for Reconsideration.

### **Additional Evidence on Appeal:**

Appellant:

Before the hearing, the Appellant submitted:

- A Notice of Appeal, filed on May 2, 2025, in which she provided the following reasons for appealing:
  - Error of fact.
  - Unreasonable reliance on third party opinion without direct assessment (physio has never seen power wheelchair and refers to client's self-bought manual chair as current).
  - Medical necessity and dignity not fully considered.
  - The delay in submission was due to a technical error on MSDPR's end, specifically, MSDPR's fax line was not operation (sic) at the time the required documentation was sent. Had the fax line been functioning correctly, the documents would have been received well within assessment timeframe. The delay was outside of client's or service provider's control and should not be held against the client. We respectfully request that this procedural error be acknowledged and that the application be based on the original, timely attempt at submission.
- On August 5, 2025, the Appellant made a written submission to the Tribunal which explained the two positions she is advancing in support of the appeal. First, it is submitted that the Q50 R Carbon Folding Power Chair is medically essential to achieve or maintain basic mobility for the Appellant. Second, it is submitted that while the chair is in good condition, it is no longer functional for the Appellant, and it does not meet her basic medical needs. The Appellant's submission of August 5, 2025, also included copies of British Columbia Government policy documents entitled "Medical Equipment and Devices, to assist in the implementation of the relevant legislation. The July 31, 2025, letter referred to above from the Appellant's Medical/Nurse practitioner, and extensive marketing materials provided by a vender of wheelchairs.

Ministry:

Before the hearing, the Ministry submitted a memo on August 15, 2025, which stated that if the Ministry had this information at the time of reconsideration, a different decision may have been reached.

### **Admissibility of Additional Evidence:**

The Panel finds that the additional written evidence of the parties is reasonably necessary to determine the issues in the appeal. Therefore, the Panel finds that the additional written

evidence of the Appellant and the Ministry is admissible under section 22(4) of the *Employment and Assistance Act*.

**Part F – Reasons for Panel Decision**

The issue of the appeal is whether the Reconsideration Decision of the Ministry dated April 7, 2025, in which the Ministry denied funding for the purchase of a Q50 R carbon folding power wheelchair, is reasonably supported by the evidence, or is a reasonable application of the legislation in the Appellant's circumstances.

**Appellant's Position**

The Appellant submits that:

- She is wheelchair dependent.
- Her Medical/Nurse practitioner recommends a foldable or collapsible automatic power wheelchair to meet the limitations noted below:
  - She suffers from both rotator cuff (shoulder) pain and there is a progressive increase in pain levels.
  - Both shoulders hurt if pushing for long distances.
  - It is unmanageable to use the wheelchair for long distances and inclines, such as in shopping malls.
  - She cannot transport the device in certain vehicles, namely small sized cars.
  - Her mother helps push the wheelchair and she is getting old and cannot do the same thing for a long time.
  - The Advocate submitted that if the evidence supports that the equipment is medically essential to achieve or maintain basic mobility, and all other eligibility requirements have been met, the client is eligible for the requested equipment.
  - The Advocate further submitted that regarding the Appellant's previously funded chair, no repairs are required, and a complete redesign of the wheelchair would be required for it to meet her current medical needs. Therefore, it is more economical to purchase a suitable wheelchair, rather than make any repairs to the previously funded wheelchair.

**Ministry's Position**

The Ministry submits that:

- Funding may only be approved where the requested equipment is deemed medically essential to achieve or maintain basic mobility, as required under the Regulation. The Appellant's current wheelchair meets her need for basic mobility, and therefore, the Ministry is not authorized to provide a second wheelchair.
- A wheelchair may only be replaced if it is damaged, worn out, or not functioning, and if replacement is more economical than repair. The Ministry has confirmed that the current

power wheelchair is fully functional, in good working condition, and does not require repairs. It has not been identified as damaged, worn out, or non-functional.

- No evidence has been provided to indicate that the Appellant is unable to achieve or maintain basic mobility, or that this cannot be accomplished using the existing power wheelchair. The current wheelchair continues to meet her mobility-related needs.
- Therefore, the Ministry is unable to approve funding of the requested Q50 R Carbon Folding Power Wheelchair.
- As was noted above, the Ministry submitted a memo on August 15, 2025, which stated that had the Appellant's additional information been available at the time of reconsideration, a different decision may have been reached.

### Panel Decision

The Panel has reviewed the Appellant's request in accordance with the Regulation, specifically the requirements set out in Schedule C, sections 3(1) to (6) and the eligibility criteria outlined in section 3.2 (2). It has also considered the new evidence submitted by the Appellant and the Ministry. The Ministry's Reconsideration Decision denied the request for the wheelchair based on two factors:

#### ***1. Medically Essential for Basic Mobility***

Under section 3.2(2) of Schedule C of the Regulation, the Ministry may provide a health supplement for a wheelchair if the Ministry is satisfied that the wheelchair is medically essential to achieve or maintain basic mobility. The Panel noted from the evidence that the Appellant's main concern is the inability to travel in small vehicles, as her current power wheelchair is too large and heavy to accommodate such transportation. The Panel agrees that a foldable or collapsible power wheelchair may offer increased convenience for travel, however, there is a lack of clear evidence to establish how this **inconvenience** makes the requested power wheelchair medically essential to achieve basic mobility.

The Panel considered the Appellant's physiotherapist's evidence dated November 25, 2024, which noted that the power foldable wheelchair was needed to address the shortcomings of the **manual wheelchair**. It seems to the Panel that the correct comparison of the requested wheelchair would be with the current power wheelchair - not with the manual wheelchair. The limitations of the manual wheelchair were noted to be rotator cuff (shoulder) pain, progressive increase in pain levels, and the manual wheelchair was unmanageable to use for long distances and inclines (shopping malls). However, these medical problems are caused when using the manual wheelchair only. There is no evidence to show how the current power wheelchair fails to meet the Appellant's medical needs essential for achieving or maintaining her basic mobility.

The Panel also considered the January 30, 2025 email where the Appellant's physiotherapist stated that the Appellant's shoulders hurt if **pushing** the wheelchair for long distances, and her mother helps in **pushing** the wheelchair, as she is elderly, and cannot do that for a long time. The Panel again notes that the essential medical need is established through a comparison of the current **manual** wheelchair with the requested electronic wheelchair. There is no need to push an electronic wheelchair, unless there is evidence to explain the need to push. Finally, the Panel considered the evidence in the Advocate's submission that the Appellant uses HandyDART for transportation but finds her current wheelchair quite difficult to use with HandyDART. No evidence was provided with regards to the nature of the difficulty experienced by the Appellant, in using the HandyDart service, with respect to either the manual or power wheelchairs.

The Panel finds that funding may only be approved under the Regulation where the requested equipment is deemed medically essential to achieve or maintain basic mobility. The Panel finds that the Ministry's decision was reasonable, given there was no evidence provided to indicate that the Appellant is unable to achieve or maintain basic mobility, or that this cannot be accomplished using her existing power wheelchair.

## 2. Replacement Criteria

Under Section 3(3)(a) of Schedule C of the Regulation, a wheelchair may only be replaced if it is damaged, worn out, or not functioning, and if replacement is more economical than repair.

The Panel considered the evidence that on January 13, 2025, the Ministry contacted the Appellant's physiotherapist to inquire about the present condition of the Appellant's current power wheelchair, noting that only one repair has been recorded to date. On January 21, 2025, the physiotherapist replied and advised: "Her current [electronic] wheelchair is in working condition and there are no repairs pending due... Her biggest concern is that she cannot travel in small cars as it does not fit." The Ministry then confirmed based on this evidence that the Appellant's current power wheelchair is fully functional, in good working condition, and does not require repairs. It has not been identified as damaged, worn out, or non-functional. Therefore, the Ministry found that the Appellant's request for a new power wheelchair to replace the current power wheelchair does not meet the replacement criteria set out in the legislation.

The Panel finds that the Ministry's decision was reasonable, given there was no evidence provided to indicate that the Appellant's existing power wheelchair needs repairs or replacement under Section 3.2(3) of Schedule C of the Regulation.

## Conclusion

The Panel agrees that the Appellant may benefit from the provision of a Q50 R carbon folding power wheelchair. However, the evidence does not meet the eligibility requirements outlined in



sections 3(1) to (6) and 3.2 of the Regulation. Therefore, the Panel confirms the Reconsideration Decision. The Appellant is not 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:

(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.

***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

Bill Farr

Signature of Chair

Date (Year/Month/Day)

2025/08/21

Print Name

Baljinder Chahal

Signature of Member

Date (Year/Month/Day)

2025/08/21

Print Name

Rick Bizarro

Signature of Member

Date (Year/Month/Day)

2025/08/21