

Reasons for Decision:

Order #AP2021-0082

On <date removed>, <name removed> filed an appeal of three decisions of the Director, St. Boniface/St. Vital to deny them funding for prescription drugs, face masks and optometry services. The decisions were communicated in three separate letters, all dated <date removed>.

At the outset of the hearing, the Chair declared that the three issues would be heard sequentially.

Prescription Drugs

The decision letter sent to <name removed> advised them that the Department would not reimburse them for prescriptions for <medication removed>, <medication removed> or <medication removed> without proof of exceptional drug status (EDS).

At the hearing, <name removed> told the Board they spent almost <amount removed> in <date removed> on medical expenses, including approximately <amount removed> for prescriptions.

The most expensive prescription was for <medication removed>, which is a blood thinner. <name removed> stated they had <health condition removed> surgery in early <month removed>, and they were required by their surgeon to take <medication removed> for one month prior to the surgery and two months after the surgery. The appellant noted their surgeon told them the surgery would be cancelled if <name removed> missed a single dose.

<name removed> stated the first prescription cost <amount removed>, and was not covered by the Department because their surgeon had not applied for EDS. The surgeon subsequently applied for and received EDS for the prescription, and the Department has agreed to pay for future prescriptions. <name removed> submitted that the Department should reimburse them for the first prescription as well, as the drug was medically necessary and eligible for EDS.

<name removed> stated the second prescription they wanted reimbursement for was for <medication removed>. The appellant told the Board they have been taking <medication removed> for a long time, and it always had EDS status. The appellant was unaware that the status had expired, and suggested it may have lapsed around the time their long-term doctor retired. The appellant's new doctor applied for and received EDS for the prescription, and the Department has agreed to pay for future prescriptions. <name removed> submitted that the Department should reimburse them <amount removed> for the initial prescription as well, as there was no way for them to know that the EDS status had lapsed.

<name removed> stated the third prescription was for <medication removed>, which was a <medication removed> alternative containing <medication removed> instead of codeine and caffeine. <name removed> asserted that they cannot tolerate caffeine because of their <health condition>, and aspirin and ibuprofen contraindicate their blood thinners. The appellant's doctor applied for EDS for <medication removed>, but was denied by the Provincial Drug Program.

<name removed> raised the issue directly with the Provincial Drug Program, and they asserted that the program director told them that the denial of <medication removed> was a blanket government policy that did not consider individual circumstances. The appellant asserted that the director told him that the Manitoba Government would never fund <medication removed>.

Since EDS was denied for <medication removed>, the Department denied reimbursement of the <amount removed> cost of the initial prescription, as well as reimbursement for any future prescriptions.

The Department told the Board that it only funds prescription drugs approved by the Provincial Drug Program, whether the drug is on the standard formulary or has EDS. The determination of approved prescription drugs is a health care responsibility, not a social services responsibility.

The Department stated it funds a prescription drug only after it has received EDS approval. The Department does not reimburse expenditures that occurred prior to the drug's receiving approval.

The Department confirmed that <medication removed> and <medication removed> have been approved for <name removed>, and that the Department will pay for those prescriptions in the future.

The Board accepts that <name removed> was required to begin taking <medication removed> when it was prescribed by their surgeon, and that it would be unreasonable from a medical perspective to require them to wait for EDS status. The Board accepts that the lapse in EDS coverage for <medication removed> was an administrative oversight beyond <name removed>'s control.

The Board has heard a number of appeals concerning denial of coverage for <medication removed>, and has raised this issue with the Manitoba Government in the past. However, the Board has deferred to the judgement of the medical professionals in the Provincial Drug Program when determining if a prescription drug is approved for funding in Manitoba.

After careful consideration of the written and verbal evidence submitted to it, the Board determines that <name removed> should be reimbursed for their out-of-pocket purchases of <medication removed> and <medication removed>, but not for <medication removed>. The Board varies the decision of the Director and orders the Department to reimburse <name

removed> <amount removed> for <medication removed> and <amount removed> for <medication removed>.

Face Masks

<name removed> told the Board their optometrist requires patients to wear a face mask when attending appointments. Based on their optometrist's requirement, as well as their vulnerable status due to their <health condition removed>, <name removed> was forced to purchase a face mask before they could attend their appointment.

<name removed> asserted that they could not find a small quantity of affordable masks because of the high demand for personal protective equipment at the peak of the public health emergency. The appellant could only find a 10-pack of N95 masks at a safety supply store, at a cost of <amount removed>.

<name removed> acknowledged that the masks were expensive and criticized the pricing strategy of the safety supply store. The appellant asserted that they had no alternative, as they have a serious <health condition removed> and had waited a considerable amount of time for the appointment.

<name removed> rejected the Department's suggestion that they should fund the purchase from his Allowance for Persons with Disabilities. The appellant stated they only received <amount removed> per month from the Department.

The Department told the Board it had never received a request for N95 masks before, so <name removed>'s worker consulted with the Department's Leading Policy and Program Specialist. The Specialist advised that the Department only funds supplies listed on the home care supply list, which does not include N95 masks.

In response to a question from the Board, the Department stated it has not made any changes to medical supply funding in response to the current public health emergency. However, the Department did provide all disability assistance recipients with a one-time \$200 payment to cover extra costs arising from the public health emergency.

<name removed> asserted that they had not received the \$200 payment. The Department stated it would review <name removed>'s file to ensure they receive the payment, if it has not already been sent.

The Board asked the Department if that \$200 payment was separate from the \$200 payment made to all seniors in May and June 2020. The Department confirmed it was a separate payment.

The Board notes that, as a 65-year old Manitoban receiving disability assistance, <name removed> has received or will receive a total of \$400 from the Manitoba Government to assist them with COVID-19 related costs. These payments will reimburse them for the cost of the N95 masks. As <name removed> is already scheduled to receive reimbursement

from the Government for their extra costs, the Board confirms the decision of the Director to deny additional funding for N95 masks.

Optometry Services

<name removed> stated they have been diagnosed with <health condition removed>. The appellant asserted that they needed two sets of eyeglasses – bifocals for driving, and reading glasses to correct their double vision.

The appellant explained they needed bifocals for driving because they required both distance vision and the ability to read the instrument panel. However, the focus length for the instrument panel was too far to be effective for reading, so they required reading glasses.

<name removed> stated their <health condition removed> is sensitive to eyestrain, and they experience double vision when they are tired or has excessive strain.

<name removed> stated the total cost of their glasses, excluding sunglasses they purchased, was <amount removed>. The Department only reimbursed <amount removed>. While they have paid half the outstanding balance, they have not received their eyeglasses because they still owe their optometrist approximately <amount removed>.

<name removed> asserted that the Department needed to look beyond its standard policy and respond to individual circumstances.

The Department told the Board that it consulted with its medical unit before making a decision. The medical unit confirmed that it would only cover one pair of bifocals for distance and reading. The Department noted that the optometrist received pre-approval for the eyeglasses, and was aware of how much funding the Department would provide. The Department asserted that it was the optometrist's responsibility to advise <name removed> of the amount they would have to pay before supplying the eyeglasses.

While <name removed> asserted that the Department should waive its standard policy based on their individual circumstances, the Board notes that the rules governing the provision of eyeglasses are not only based in Department policy, but also set out in agreements between the Department and the governing bodies for opticians and optometrists in Manitoba.

The Board notes the Department has provided funding for <name removed>'s eyeglasses despite Section 9 of Schedule A of *The Manitoba Assistance Act Regulation*, which states that:

The following amounts are payable to a person in respect of his or her health care:
(b) essential optical supplies including eyeglasses where a duly qualified medical practitioner has certified that there is no systemic or ocular disease of the eye;

After careful consideration of the written and verbal evidence submitted to it, the Board determines that the Department correctly administered <name removed>'s request for eyeglasses, consistent with the regulation, policy and industry agreements. The Board confirms the decision of the Director to pay <amount removed> for <name removed>'s eyeglasses.

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