

PART C – Decision under Appeal

The issue under appeal is the ministry's reconsideration decision dated February 15, 2012 that denied the appellant funds for processed relines on her dentures. The ministry based its decision on the appellant's qualification under EAR section 70, Emergency Dental and Denture Supplements, and the corresponding fee schedule, Schedule of Fee Allowances-Denturist, Part C, Emergency Dental-Denturist, having found that she was not eligible under EAR section 68.

PART D – Relevant Legislation

Employment and Assistance Regulations (EAR), section 70
Employment and Assistance Regulations (EAR), schedule C
Schedule of Fee Allowances-Denturist, Part C, Emergency Dental-Denturist

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision was:

- A letter written by the appellant's denturist dated January 31, 2012. The letter states that the appellant needs permanent relines to her dentures because they are "extremely loose." The letter adds that the relines are required about 6 months after extractions but the appellant said that her past denturist did not inform her that she should have had the relines done within 6 months.
- A request for reconsideration form dated February 6, 2012 completed by the appellant. She writes that she was not told that she should have had the relines done within 6 months. She also writes that she was initially told by the ministry office that the relines would be paid for but when she set up the appointment with the denturist she was told by the ministry that she was past the 6 month limit and that the relines would not be covered. She adds that her denturist has told her that she requires this procedure to ensure a proper fit of her dentures.

The evidence before the panel at the hearing also included the appellant's Notice of Appeal dated February 27, 2012, which contained an attached letter providing a summary of the appellant's position. She writes that she disagrees with the ministry's decision because the denturist has recommended processed relines to her dentures due to her dentures being very loose and it is painful for her to eat foods that are not soft. She goes on to write that her denturist does not do direct relines and that the ministry will not allow her to find another denturist that will provide her with the direct relines.

In its reconsideration decision the ministry finds that the appellant qualifies for emergency dental services under EAR section 70 and Schedule C, section 5. The corresponding fee schedule for this section of the EAR provides the appellant with direct relines (maxillary and mandibular) but does not provide for processed relines. The ministry wrote in the decision that they had contacted the appellant's denturist to inform him of the approval and he stated that the processed relines were required.

At the hearing the appellant told the panel that she would like to have the processed relines vs. direct relines to correct the poor fit of her dentures because her denturist has recommended the procedure but that she understands that processed relines are not included in the schedule of fees that she qualifies under. She added that her denturist told her that he does not offer direct relines but she is restricted from seeking a different denturist because the ministry approval is not transferable to any denturist other than her current one. When asked by the panel why she didn't have the relines completed within six months of having her new dentures installed, she told the panel that the denturist that made her dentures did not tell her that the relines were necessary so she missed the six month deadline.

At the hearing the ministry reviewed the section of the EAR that the appellant qualifies under and noted that the corresponding fee schedule does not allow for processed relines as recommended by the denturist. The ministry added that it would be likely that the appellant would be allowed to seek out a different denturist to provide the direct relines if in fact her current denturist does not offer the procedure.

The Panel finds as a fact the following:

- The appellant qualifies for emergency dental services under EAR section 70 and Schedule C, section 5. The applicable fee schedule was Schedule of Fee Allowances-Denturist, Part C, Emergency Dental-Denturist.
- The appellant's denturist has recommended processed relines to correct the appellant's loose dentures.
- The Schedule of Fee Allowances-Denturist, Part C, does not include processed relines as an approved procedure but does include direct relines.
- The appellant did not qualify under EAR section 68.

PART F – Reasons for Panel Decision

The issue to be determined is the reasonableness of the ministry's decision to deny the appellant funds to have processed relines for her dentures because the procedure is not approved under the fee schedule. The EAR, section 70 reads:

- 70 (1)** Subject to subsection (2), the minister may provide any health supplements set out in section 6 of Schedule C to or for a family unit if the health supplement is provided to or for a person in the family unit who is
- (a) a recipient of income assistance under Schedule A,
 - (b) a recipient of hardship assistance under Schedule D,
 - (c) a person referred to in section 67 (1) (f) [*general health supplements*],
 - (c.1) a person referred to in section 67 (1) (h), if
 - (i) the person is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
 - (ii) the person is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,
 - (d) a person referred to in section 72 [*dental and optical supplements — healthy kids program*],
 - (e) a dependant of a person referred to in paragraph (a) or (b),
 - (f) a dependant of a person referred to in paragraph (c), or
 - (g) a dependant of a person referred to in paragraph (c.1), if the dependant is a dependant of the person referred to in paragraph (c.1) on the day the person's family unit ceased to be eligible for income assistance, and any person in the family unit
 - (i) is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or
 - (ii) is aged 65 or more and a person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement.
- (2) A person eligible to receive a health supplement under subsection (1) (c) or (f) may receive the supplement
- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
 - (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.
- (3) A person who was eligible to receive a health supplement under subsection (1) (c.1) or (g) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

The EAR schedule C reads:

"denture services" means services and items that

- (a) if provided by a dentist
 - (i) are set out under fee numbers 51101 to 51302 in the Schedule of Fee Allowances — Dentist that is effective April 1, 2010 and is on file with the office of the deputy minister, and
 - (ii) are provided at the rate set out for the service or item in that Schedule, and
- (b) if provided by a denturist
 - (i) are set out under fee numbers 31310 to 31331 in the Schedule of Fee Allowances — Denturist that is effective April 1, 2010 and is on file with the office of the deputy minister, and
 - (ii) are provided at the rate set out for the service or item in that Schedule;

"denturist" means a denturist registered with the College of Denturists of British Columbia established

under the *Health Professions Act*;

"emergency dental service" means a dental service necessary for the immediate relief of pain that,

- (a) if provided by a dentist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Dentist, that is effective April 1, 2010 and is on file with the office of the deputy minister, and
 - (ii) is provided at the rate set out in that Schedule, and
- (b) if provided by a denturist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Denturist, that is effective April 1, 2010 and is on file with the office of the deputy minister, and
 - (ii) is provided at the rate set out in that Schedule;

Schedule of Fee Allowances-Denturist, Part C reads:

MINISTRY OF HOUSING AND SOCIAL DEVELOPMENT
 Schedule of Fee Allowances – Emergency Dental - Denturist
 Effective April 1, 2010

Each emergency visit is restricted to the procedures and limitations outlined in this schedule. Services outside this schedule (i.e., dentures, processed relines and rebases, exceeding time-limited procedures, etc.) will not be covered and any work beyond the immediate relief of pain will not be considered.

Direct Reline – Complete Denture

Relines are limited to once per arch in a two-year period and are not billable within the six-month post insertion period.

32210 Maxillary \$72.00

32220 Mandibular \$72.00

It is the position of the appellant that the ministry should cover the cost of the processed relines because her denturist has recommended the procedure in order to correct her loose fitting dentures. She states that her denturist has said that the direct relines will not properly correct her problem.

It is the position of the Ministry that the appellant qualifies for emergency dental services under EAR section 70 and Schedule C, section 5. The corresponding fee schedule allows for the appellant to have direct relines but does not allow for processed relines as recommended by the appellant's denturist.

Regarding the appellant's argument that she should be approved for the processed relines the panel referred to the fee schedule and found that the ministry was reasonable to approve her for the direct relines only. The panel finds that the ministry was reasonable to apply the fee schedule for emergency dental-denturist. The panel notes that the EAR Schedule C – Emergency dental service does not give the ministry discretion to approve services/procedures that are not set out in the fee schedule and therefore the ministry was reasonable to deny the appellant the coverage for processed relines.

The panel finds that the ministry's reconsideration decision was a reasonable application of the enactment in the circumstances of the appellant and therefore confirms the ministry's decision.