

PART C – Decision under Appeal

The decision being appealed is the Ministry's May 10, 2012 reconsideration decision in which the Ministry made the following determinations regarding the Appellant's eligibility, as a Person with Disabilities (PWD) designation, for dental health supplements under the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR):

1. For dental services the Appellant received from June 14, 2011 to April 10, 2012, the Ministry denied coverage in excess of the \$1000 maximum allowable for basic dental services in accordance with section 63 and Schedule C section 4 of the EAPWDR. The Ministry also denied coverage for the difference between the rates that the Appellant's dentist charged for those services and the rates for dental procedures set out in the EAPWDR's Schedule of Fee Allowances – Dentist;
2. For dental services the Appellant received on April 10, 2012 the Ministry approved coverage for emergency dental services in accordance with section 64, with Schedule C section 5 and with the Schedule of Fee Allowances for Emergency Dental-Dentist; and,
3. For the proposed procedures in a November 2011 treatment plan prepared by the Appellant's dentist, the Ministry determined that because the dentist had not yet provided that proposed plan to the insurance provider for approval, no decision had been made yet regarding the Appellant's eligibility for coverage for those procedures, and therefore the Ministry could not grant a reconsideration.

PART D – Relevant Legislation

Employment and Assistance Act (EAA) Section 22 and 24.

Employment and Assistance for Persons with Disabilities Act (EAPWD) Section 16.

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) Sections 62, 63, 64, Schedule C section 1, 4 and 5, Schedule of Fee Allowances – Dentist and Schedule of Fee Allowances – Emergency Dental-Dentist.

PART E – Summary of Facts

For its reconsideration decision the Ministry had the following evidence:

1. Information from the Ministry's records indicating that:
 - The Appellant is a PWD receiving disability assistance from the Ministry.
 - From June 15, 2011 to April 10, 2012 the Appellant received dental treatment and the total dentist's fees for those treatments was \$1687.40
 - Dental claim details indicating that the Ministry paid \$1,000 towards those dental fees during that time.
 - Based on the Appellant's claim history with the insurance provider, on April 10, 2012 the Appellant had \$52.24 left out of that \$1,000 paid.
 - On April 10, 2012 the Appellant had 3 teeth extracted. The Ministry provided coverage for one extraction in the amount of \$52.25 but initially provided no coverage for the other 2.
2. Appellant's May 2, 2012 request for reconsideration together with:
 - Receipts for dental services from June 14, 2011 to April 10, 2012.
 - Memo dated May 3, 2012 from the Appellant to the Ministry stating that \$628.90 was paid to the dentist by the Appellant's mother with a credit card and that amount remains as an outstanding debt. The total paid was \$628.90 as supported by enclosed receipts. The Appellant wrote that the enclosed estimate of \$5,914 is what is necessary to restore dental health. She stated that she continues to suffer fever blisters and septic mouth sores and nausea created from drainage of septic sores, causing continued weight loss and deteriorating health. The Appellant submitted that the Ministry decision was incorrect because they failed to recognize the complete body health deterioration because of the oral condition. The Appellant wrote that she felt that it would be less costly to repair at that point than to have her end up hospitalized and thereby incur further medical costs to the system.
 - Undated note from the Appellant stating that due to her deteriorating health she is dealing with sinus infections as well as with abscessed teeth. She has no money so she has had to depend on antibiotics to keep the infection down. The Appellant wrote that the antibiotics are hard on her stomach. They make her nauseated and she can't eat. The Appellant also wrote that she is running out of options and she is worried about her health. She stated that she is trying to see if she can get the remaining teeth removed in hospital so there would be no cost to her and bring the total amount down. The Appellant listed extractions for \$1159.70 and dentures for \$1632.30 for a total of \$2792. She also wrote that she has six teeth left on top and she needs dentures. She indicated that the remaining 8 lower teeth can be done later.
 - Undated note from the Appellant stating that she has only 18 teeth left and 12 must go. She has a big bill to pay before they will do anything. She wrote that she pays them \$20 a month but it is not coming down. She is in a lot of pain and is not sure what she can do. She also wrote that she knows she is going to need dentures but no one will look at her until this bill is paid. She paid \$20 and was assessed a late payment of \$9.60.
 - Two statements from the dentist: one dated December 20, 2011 showing a balance owing of \$640.30; and, one dated May 11, 2011 showing a balance owing of \$620.30, but with no details about which dental services these amounts apply to.
 - Letter dated January 11, 2012 from a collection service indicating the dental service referred the Appellant to them and she has a balance due of \$620.30.
 - Two treatment plans (estimates) dated November 8, 2011 prepared by the Appellant's dentist and addressed to her, setting out recommended services for a total of \$5914.

In her notice of appeal the Appellant wrote that the Ministry's decision is incorrect because it failed to recognize her complete body health deterioration because of the oral condition. She referred to additional information from a doctor and dentist. For this appeal the Appellant submitted the following:

- Letter dated May 30, 2012 from the Appellant to the tribunal with her appeal submissions. In the letter she wrote that due to her deteriorating health she presently deals with sinus infections and recurring abscesses on her teeth. She has no extra money so she has to depend on antibiotics to keep infections somewhat controlled. She wrote that the antibiotics are hard on her stomach, causing nausea and severe loss of appetite. The Appellant stated that she is running out of options and she is extremely worried about her health and continued weight loss which causes additional stress. She indicated that the total estimate for all her dental work is \$5914.
- Letter dated May 22, 2012 from the Appellant's dentist addressed to this tribunal. The dentist indicated that he has been her dentist for 14 years and that the Appellant presents with dental problems that could have detrimental effects on her total health. The dentist wrote that over that period the Appellant has had a high rate of cavities and persistent chronic infections. The dentist has suggested that she have all her remaining upper teeth extracted and a complete upper denture placed. The dentist also wrote that at this time the Appellant has inadequate chewing capacity making it difficult to masticate her food and the dentist feels that a complete upper denture will enhance her ability to chew and therefore improve her overall health. The dentist stated that normally oral tissues and fluids provide significant barriers and protection against microbial infections. At time these infections cause local disease, but under certain circumstances can disseminate to cause infections in other parts of the body. The dentist wrote that the control of existing oral infections is clearly of intrinsic importance and a necessary precaution to prevent systemic complications. The dentist asked the Ministry to pay for a complete upper denture and he enclosed copies of the Appellant's most recent x-rays.
- Medical lab tests for the Appellant dated May 22, 2012.
- Invoice from a doctor dated June 6, 2012 for \$35 and a June 5, 2012 letter from that doctor addressed to this tribunal verifying that the Appellant suffers with recurring sinus infections and tooth abscesses, and that the infections require antibiotics. The doctor wrote that continual use of antibiotics is inadvisable in general as well it irritates the Appellant's stomach, leading to nausea and loss of appetite.

The Ministry made no submissions regarding the admissibility of the documents submitted by the Appellant for this appeal. The Panel finds that the information in these documents relate to the information the Ministry had at the time of reconsideration regarding the Appellant's dental health and dental procedures. Therefore the Panel admits these as being in support of the evidence the Ministry had for its reconsideration decision pursuant to section 22(4) of the EAA.

The Ministry indicated that its submission in this appeal will be the reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably made the following determinations regarding the Appellant's eligibility for dental health supplements under the EAPWDR:

1. For dental services the Appellant received from June 14, 2011 to April 10, 2012, the Ministry denied coverage in excess of the \$1000 maximum allowable for basic dental services in accordance with section 63 and Schedule C section 4 of the EAPWDR. The Ministry also denied coverage for the difference between the rates that the Appellant's dentist charged for those services and the rates for dental procedures set out in the EAPWDR's Schedule of Fee Allowances – Dentist;
2. For dental services the Appellant received on April 10, 2012 the Ministry approved coverage for emergency dental services in accordance with section 64, with Schedule C section 5 and with the Schedule of Fee Allowances – Emergency Dental-Dentist; and,
3. For the proposed procedures in a November 2011 treatment plan prepared by the Appellant's dentist, the Ministry determined that because the doctor had not yet provided that proposed plan to the insurance provider for approval, no decision had been made yet regarding the Appellant's eligibility for coverage for those procedures, and therefore the Ministry could not grant a reconsideration.

The following sections of the EAPWDR apply to the Appellant's circumstances in this appeal:

62(1) Subject to subsections (1.1) and (1.2), 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 family unit if the health supplement is provided to or for a person in the family unit who is (a) a recipient of disability assistance.

63 (1) Subject to subsection (2), the minister may provide any health supplement set out in section 4 [*dental supplements*] of Schedule C that is provided to or for a family unit if the health supplement is provided to or for a person in the family unit who is eligible for health supplements under (a) section 62(1)(a).

64(1) Subject to subsection (2), the minister may provide any health supplements set out in section 5 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 eligible for health supplements under (a) section 62(1)(a).

Schedule C

1 In this Schedule

"basic dental service" means a dental service that

(a) If provided by a dentist, (i) is set out 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) is provided at the rate set out for the service in that Schedule.

"emergency dental services" 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.

4(1) In this section, "period" means (a) in respect of a person not referred to in paragraph (a) [*dependent child*], a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.

(1.1) The health supplements that may be paid under section 63 [*dental supplements*] of this regulation are basic dental services to a maximum of (b) \$1000 each period, if provided to a person not referred to in paragraph (a).

5 The health supplements that may be paid for under section 64 [*emergency dental and denture supplements*] of this regulation are emergency dental services.

Schedule of Fee Allowance – Dentist – Effective April 1, 2010 including Emergency Dental and Denture Supplements – Dentist.

In its reconsideration decision the Ministry reviewed the Appellant's dental procedures and claims history from June 16, 2011 to April 10, 2012, including all of the amounts paid by the Ministry according to the rate schedule in the EAPWDR. The Ministry also reviewed all of the information provided by the Appellant with her request for reconsideration, including statements from the dentist showing balances owing of \$640 and \$620.30, and the treatment plan estimates for \$5,914. Based on this review, the Ministry found there were inconsistencies regarding amounts paid for some of the completed procedures and it was unable to determine what dental procedures the outstanding balances applied to. Therefore the Ministry considered the Appellant's eligibility for dental supplements under the EAPWDR in general terms and based on the Appellant's claims history with the insurer.

Basic Dental Services

The Ministry determined that the Appellant is eligible for basic dental service under section 63 of the EAPWDR and Schedule C, Section 4 of the EAPWDR. The Ministry noted that it may pay for basic dental services up to \$1000 for each period based on the provisions of section 4(1.1) of Schedule C. The Ministry also noted that section 4(1) of that Schedule defines "period" as a 2-year period beginning on January 1, 2009 and on each subsequent January 1 in an odd numbered year. In its review of the Appellant's claims history, the Ministry noted that as of April 10, 2012, she had \$52.25 remaining from the \$1000 limit. The Ministry paid that sum for one tooth extraction on April 10, 2012; however, it was unable to provide coverage for two other extractions because the Ministry determined that the Appellant had no funds remaining for basic dental services. It did cover those as emergency dental services (see below). The Ministry also reviewed the definition of basic dental service in section 1 of Schedule C which states that a dental service is one that is set out in the Schedule of Fee Allowances – Dentist and is provided at the rate set out in that schedule. Based on this regulation the Ministry determined that it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule and it was also not authorized to pay more than the \$1,000 limit. Therefore it could not pay the difference between the dental fees charged to the Appellant and the rates in that schedule for basic dental services provided up to April 10, 2012, and it could not pay more than the \$1000 already authorized.

The Appellant's position is that the Ministry's decision is incorrect because it failed to consider her complete body health which is deteriorating because of her dental problems. She provided evidence of her ongoing health problems caused by her teeth, including evidence from her dentist about the need for the procedures set out in the treatment plans. The Appellant also submitted that she has no extra money and her mother paid for some of her dental procedures with a credit card. She is running out of options and is extremely worried about her health. The Appellant asks that the Ministry pay for the amounts still owing to the dentist and for the procedures estimated to cost \$5,914.

The Panel finds that in its reconsideration decision the Ministry reviewed all of the information that it had about the Appellant's dental claims history for the period from June 16, 2011 and to April 10, 2012 and it reasonably determined that it had approved \$1000 in dental services during that period. The Ministry also reviewed applicable sections of the EAPWDR to determine what dental services are covered by that regulation and for what amounts. Based on that review and the evidence, the Panel finds that the Ministry reasonably determined that it is only authorized to approve the basic dental services listed in the regulation and for the amounts listed, and it is only authorized to approve a maximum of \$1000 in dental services within a 2 year period. Therefore the Panel confirms the Ministry's decision regarding the maximum amount it could pay for dental services through April 10, 2012.

Emergency Services

The Ministry also considered whether the Appellant is eligible for emergency dental services. It reviewed the information the Appellant provided with her request for reconsideration, including her memo dated May 3, 2012 reporting that she suffers fever blisters, septic mouth sores and nausea created from drainage of septic sores, causing weight loss and deteriorating health. The Ministry indicated that it contacted the Appellant's dental office to determine whether the extraction services provided on April 10, 2012 were emergency dental services and it was advised that the procedures were emergency services. Therefore the Ministry determined that the Appellant was eligible for coverage for the services performed on April 10, 2012 as emergency dental services at the rates set out in the dental schedule of fees for emergencies. However, based on this regulation, the Ministry also determined that it is not authorized to provide coverage for emergency dental fees in excess of the amounts set out in that schedule.

The Appellant did not provide submissions directly related to this issue; however, the Panel finds that her position regarding the relationship of her dental health to her general health and her need for dental services applies to this issue as well.

The Panel finds that the Ministry reasonably considered the Appellant's eligibility for emergency dental services and the rates for those set out in the EAPWDR Schedule of Fee Allowances – Emergency Dental-Dentist. The Ministry also contacted the dentist for confirmation that the April 10, 2012 services were emergency services. Based on the evidence and the applicable regulations, the Panel also finds that the Ministry reasonably determined that the Appellant was eligible for coverage for emergency dental services for the April 10, 2012 services at the rates set out in that Schedule.

Additional Requested Services

The Ministry noted that the Appellant submitted estimates for additional dental procedures recommended by her dentist in the amount \$5914. However, the Ministry also found that there was no evidence that the Appellant's dentist had submitted a request for coverage of these services to the insurance provider. In its reconsideration decision the Ministry explained that the insurance provider makes decisions regarding eligibility for dental supplements on behalf of the Ministry. The Ministry wrote that the Appellant's dentist must contact the insurance provider with the appropriate medical information to determine her eligibility. The Ministry determined that it could not grant a request for reconsideration concerning the Appellant's eligibility for those requested services because no decision had been made yet regarding such eligibility.

The Appellant's position is that she needs these additional services for her overall health but she is unable to pay for them. She stated that she has "a big bill to pay before they will do anything". She makes monthly payments but it is not enough. The Appellant also stated that she is in a lot of pain and needs the dental services for health reasons. The Appellant submitted letters from her dentist and a doctor to support her need for the treatments to address her overall health conditions.

The Panel notes that the Ministry explained that decisions about eligibility for dental services are made by the insurance provider on behalf of the Ministry and therefore estimates for such services have to be submitted to that provider. The Panel finds that the dentist's treatment plan estimates were addressed to the Appellant. The medical letters submitted by the Appellant for this appeal were addressed to this tribunal. The Panel also finds that there is no evidence that the dentist has submitted the treatment plan estimates to the insurance provider for a decision about coverage eligibility and there is no evidence that the insurance provider has made any decisions regarding eligibility for these treatments. Therefore the Panel finds that based on the evidence the Ministry reasonably determined that no decision about the Appellant's eligibility for the services in the treatment plan estimates had been made at the time of the reconsideration decision and therefore it could not grant a reconsideration.

Section 16(3) of the EAPWDA provides that, subject to certain exceptions, a person who is dissatisfied with the outcome of a request for reconsideration may appeal the decision that is the outcome of the request to the tribunal. In this case the Ministry's determination that it could not provide a reconsideration regarding the Appellant's eligibility for the treatment plan services was the outcome of the Appellant's request. For the reasons stated above, the Panel finds that the Ministry's determination that the Appellant did not have a right of reconsideration with respect to the issue of eligibility for coverage for those services is a reasonable application of the applicable enactment in the Appellant's circumstance under section 24(1)(b) of the EAA. Therefore, in accordance with section 24(2) of the EAA, the Panel confirms the Ministry's decision that it could not provide a reconsideration regarding eligibility as of May 10, 2012.

The Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable enactments in the Appellant's circumstance. For the reasons stated above, the Panel confirms the Ministry's May 10, 2012 decision.