

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development's (ministry) reconsideration decision of July 24th, 2012 wherein the ministry determined that the ministry is not authorized to provide additional funding for dental services provided under section 63 Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) which are in excess of the amount set out in Schedule C, section 4.1(1) EAPWDR; nor authorized to provide coverage for dental services (fee code 32311, pulpectomy performed on May 7th, 2012) not set out in the Schedule of Fee Allowances – Dentist, effective April 1st, 2010; nor authorized to provide fees in excess of the rate listed in the Schedule of Fee Allowances – Dentist, effective April 1st, 2010.

Further, the ministry determined the appellant was not eligible for emergency dental services (root canal performed on June 26th, 2012) under section 64 EAPWDR and Schedule C, section 5 EAPWDR which are not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist, effective April 1st, 2010; nor is the ministry authorized to provide coverage for emergency dental service fees which are in excess of the rate listed in the Schedule of Fee Allowances-Emergency Dental-Dentist, effective April 1st, 2010.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 63, 64. Schedule C – sections 1, 4(1), 4(1.1) and 5.
Schedule of Fee Allowances-Dentist, effective April 1st, 2010 and Schedule of Fee Allowances - Emergency Dental-Dentist effective April 1st, 2010.

PART E – Summary of Facts

The following facts were before the ministry at the time of reconsideration:

- Request for reconsideration dated June 22nd, 2012
- Dental Claims History form for the appellant from Pacific Blue Cross (PBC) for period of Jan 1st to July 24th, 2012 showing treatment on April 3rd, May 7th, May 31st, June 26th, July 12th and July 17th 2012. The form shows amount claimed, eligible amount, deductible, rate payable (100%, 80%), amount paid, payee (dentist), remittance date.
- Dental Claim Details with explanatory message providing PBC's rationale for payment of each treatment date noted above with the exception of the treatment on July 17th, 2012.

The appellant is designated a Person with Disabilities (PWD) and is eligible for dental services (dental health supplement) of \$1000 per 2 year period in accordance with the Schedule of Fee Allowance – Dentist, effective April 1st, 2010 and also emergency dental services (Emergency Dental Supplement) in accordance with the Schedule of Fee Allowances - Emergency Dental –Dentist effective April 1st 2010, however, funds for emergency dental services are only provided once the dental supplement (\$1000) has been expended. The appellant's claim history with PBC indicated that as of April 3rd, 2012 the appellant only had \$58.67 remaining of the \$1000 limit. After the ministry covered the appellant's treatments between April 3rd and May 31st, 2012 the appellant only had \$5.22 remaining to cover the root canal provided on June 26th. The root canal could not be covered under emergency dental treatment as this service is not set out in the Schedule of Fee Allowances - Emergency Dental – Dentist. The services provided on July 12th, 2012 were not covered as the appellant's basic dental supplement had been expended. The pulpectomy performed on May 7th, 2012 was not covered by the ministry as the fee code listed by the appellant's dentist is not set out in the Schedule of Fee Allowances-Dentist.

The claims history form with PBC indicated the following dental work was performed on the date specified.

Tooth No.	Fee Code	Procedure Description	Dentist's Fees	Ministry Rates
April 3, 2012				
	01205	Emergency Exam	47.50	21.75
	02111	Periapical x-ray	16.00	9.95
May 7 th , 2012				
35	32311	Pulpectomy	133.00	0.00
May 31 st , 2012				
	01204	Specific Exam	32.50	21.75
June 26 th , 2012				
35	33111	Root Canal	256.00	5.22
35	21214	Silver colored filling – bicuspid	101.06	0.00
July 12 th , 2012				
47	01205	Emergency Exam	47.50	0.00
	02111	Periapical x-ray	16.00	0.00
	02141	Bitewing x-ray	16.00	0.00
	16511	Occlusal adjustment/Equilibration	34.85	0.00
Total:			\$700.41	\$58.67

The dentist's fees for services between April 3rd and July 12th, 2012 were \$700.41, the ministry paid \$58.67 leaving the balance to be paid by the appellant.

At reconsideration, the Reconsideration officer contacted the appellant's dentist to determine if the dental services provided on June 26th and July 12th were emergency dental services. The ministry was informed that these procedures were indeed emergency dental services and therefore the ministry covered the dental services as emergency dental services in accordance with the Schedule of Fee Allowances-Emergency Dental-Dentist, April 1st, 2010 since the appellant's basic dental supplement had been expended.

The dentist's fee of \$256 for the root canal, fee code 33111, performed on June 26th was not covered as emergency dental treatment because this fee code (and procedure) is not set out in the Schedule of Fee Allowances-Emergency Dental – Dentist so it had to be paid from the remaining funds (\$5.22) in the appellant's basic dental supplement as stated earlier.

The Occlusal adjustment/Equilibration procedure, fee code 16511, performed on July 12th, 2012 was not covered as well as this procedure is not set out in the Schedule of Fee Allowances – Emergency Dental – Dentist either and there were no funds remaining in the appellant's basic dental supplement.

At the hearing the appellant introduced the following letter for the panel's consideration:

1. a one page letter dated August 28th, 2012 from her dentist which describes in detail the appellant's visit on April 8th, 2012 and the subsequent dental procedures that were performed on May 7th and June 26th, 2012 to tooth #35 and on July 12th, 2012 to tooth #47.

The doctor's letter states the appellant came to the dental office for an emergency exam as she was in severe pain and reported having a problem with a tooth on the lower left arch. Services performed for the appellant included an emergency exam, and an x-ray of tooth #35. She presented a deep decay, which was close to the pulp/nerve of the tooth. An antibiotic was prescribed to fight the infection, and treatment was recommended for this tooth. On May 7th, 2012, tooth #35 underwent a procedure to remove the infection and decay from the pulp of this tooth. (Pulpotomy). On June 26th the appellant returned to complete the treatment on tooth #35. The service performed to save the tooth and alleviate the pain for the appellant was called Root Canal Therapy. In the final paragraph the dentist described the emergency treatment undertaken on July 12th, 2012 and this treatment was covered by the ministry (in accordance with the fees set out in the emergency dental schedule).

The ministry had no new evidence and had no objection to the letter from the appellant's doctor being received for consideration by the panel.

The panel finds this letter contains information or evidence that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

At the hearing the appellant provided the panel with an overview of her health and financial circumstances stating that she has been on assistance for several years and has had the Persons with Disabilities (PWD) designation for the last 5 years. The appellant stated that she left her former dentist because she had lost confidence in the services being provided and was still suffering from dental pain. The appellant stated that in early April 2012 she went to see a new dentist because she was having severe pain in the left side of her mouth. She had been on a liquid diet and couldn't chew solid foods. The appellant testified she and her dentist understood the situation fell within the guidelines of emergency dental services.

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The panel accepts the testimony of the appellant and finds that the appellant's testimony contains information or evidence that is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's decision not to cover the following:

- the dental treatment (pulpectomy) performed on May 7th, 2012
- to provide additional funding to cover the dental fees for the basic dental services between April 3rd and June 26th, 2012
- the emergency dental treatment (root canal) performed on June 26th, 2012 and the occlusal adjustment/equilibration performed on July 12th, 2012.
- to provide additional funding to cover the dental fees for the emergency dental services performed on June 26th and July 12, 2012.

Legislation considered: EAPWDR

General Health supplements

Section 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,

Dental supplement

Section 63 (1) Subject to subsections (2) and (3), 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), (b) (iii), (d) or (e) [*general health supplements*],

Emergency Dental and Denture supplements

Section 64 (1) Subject to subsections (2) and (3), 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), (b) (iii), (d) or (e) [*general health supplements*],

SCHEDULE C Health Supplements

Definitions

Section 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 (B.C. Reg. 65/2010)
 - (ii) is provided at the rate set out for the service in that Schedule,

Dental supplements

Section 4

(1) In this section, "**period**" means

- (a) in respect of a dependent child, a 2 year period beginning on January 1, 2009, and on each subsequent January 1 in an odd numbered year, and
- (b) in respect of a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year. (B.C. Reg. 65/2010)

(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

- (a) \$1400 each period, if provided to a dependent child, (B.C. Reg. 65/2010)
- (b) \$1 000 each period, if provided to a person not referred to in paragraph (a), (B.C. Reg. 163/2005)
- (c) Repealed (B.C. Reg. 163/2005)

Emergency dental supplements

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

In reference to Eligibility for Basic Dental Services:

The ministry argued that section 4(1.1) EAPWDR regulates the amount of dental services (\$1000 per two year period) the ministry can provide to an eligible person and there is no legislated authority to exceed that amount. The ministry argued that on April 3rd, 2012 the appellant had limited funds remaining in her dental supplement and between April 3rd and May 31st the appellant's dentist billed \$229.00 for basic dental services. The ministry argued the pulpectomy, fee code 32311, performed on May 7th, 2012 is not set out in the Schedule of Fee Allowances-Dentist and therefore the ministry is not authorized to provide coverage for this service. The ministry argued that by June 26th, 2012 the appellant had almost depleted her \$1000 supplement so the ministry was only able to cover \$5.22 of the \$256.00 for the root canal because a root canal (fee code 33111) is not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist and therefore, it had to be covered under the Schedule of Fee Allowance-Dentist. The ministry also argued the Occlusal adjustment/Equilibration procedure, fee code 16511, is not set out in the emergency dental schedule either and, since there were no funds available in the appellant's dental supplement, this service could not be covered as emergency dental treatment.

The appellant argued that her former dentist kept making mistakes and then had to correct them and all these procedures depleted funds from her dental supplement. The appellant argued that her financial situation is very concerning and that she does not have any excess money to personally pay for dental services. The appellant argued she was still having dental pain and found a new dentist who is now challenged with addressing her dental needs with the limited funds left in her dental supplement. The appellant argued she has no extra money to pay for dental services. The appellant argued she is confused that if she needed emergency dental treatment because she was in pain why wouldn't the ministry cover the dental fee(s).

The panel finds that "the period", as defined in EAPWDR, for basic dental service supplement (\$1000 per period) is 2 years - from January 1st, 2011 to December 31st, 2012 and according to the PBC record the ministry had covered the appellant's basic dental services to the maximum limit as stated in Schedule C, section 4(1.1) EAPWDR. The PBC record shows that the dentist submitted a claim for a pulpectomy being performed on tooth #35 on May 12th, 2012 quoting fee code 32311. The panel finds that fee code 32311 is not listed in the Schedule of Fee Allowances-Dentist and based on this information the ministry has no authority to provide coverage for a fee code service not set out in the Schedule.

The panel accepts, as evidence, the dentist's letter of August 28th, 2012 which describes the dental procedure performed on May 7th, 2012 as a pulpotomy. The panel finds that pulpotomy and pulpectomy are described in a medical dictionary as the same dental procedure – the surgical removal of all or part of the pulp of a tooth, however, the fee code submitted by the appellant's dentist is not set out in either schedule and therefore the ministry cannot provide dental coverage for this procedure.

The panel notes that both the Schedule of Fee Allowances-Dentist and Schedule of Fee Allowances – Emergency Dental-Dentist provide a code for a Pulpectomy but this procedure is for primary teeth (fee code 32321 – non-emergency). The procedure described by the dentist, in the letter of August 28th, 2012, was a Pulpotomy (no fee code provided) which is performed on permanent teeth - anterior and bicuspids or molars and is set out in both schedules under the fee code (32221 or 32222 respectively) with a fee amount of \$66.44. The same fee code is set out in both schedules whether it is under Schedule of Fee Allowances-Dentist or Schedule of Fee Allowances-Emergency Dental-Dentist. The panel notes the similarity of these codes to the dentist's description for the service provided on May 12th, 2012 and had one these codes been

provided to PCB by the appellant's dentist, then the ministry may have determined the service applicable in the appellant's circumstances. The panel notes the reconsideration officer did contact the appellant's dental office regarding the treatment on July 12th, 2012 to clarify that circumstance.

The panel finds the ministry's decision not to provide coverage for a pulpectomy performed on May 17th, 2012 was a reasonable interpretation of the legislation – Schedule of Fee Allowances-Dentist as there is no fee code for pulpectomy in the ministry's dental schedule under code 32311 and the ministry has no authority to provide services that are not set out in the Schedule of Fee Allowances.

In reference to Eligibility For Fees in Excess of Ministry Rates for Basic Dental Services:

The ministry argued there is no authority to provide coverage for dental service fees in excess of those set out in the schedule. The ministry argued section 63 EAPWDR states the ministry may provide health supplements set out in Schedule C, section 4(1.1[b]) EAPWDR and that the dental service provided by a dentist must be set out in the Schedule of Fee Allowance-Dentist and is provided at the rate set out in the Schedule of Fee Allowances.

The appellant argued that she has no funds to cover the additional fees and seeks assistance.

The panel finds Schedule C, section 4(1.) EAPWDR states the ministry can provide a maximum of \$1000 for basic dental services at the rate set out in the Schedule of Fee Allowance-Dentist in a given period. The panel finds the ministry has no discretion in providing additional funding from the amount stated in the EAPWD regulation and the ministry's decision not to cover the difference between the dentist's fees and the fee set out in the Schedule of Fee Allowances was reasonable.

In reference to Eligibility for Emergency Dental Services:

In the reconsideration decision, the panel notes the ministry covered the dental services on June 26th and July 12th in accordance with the fees set out in the Schedule of Fee Allowances- Emergency Dental-Dentist- with the exception of the root canal (June 26th) which is not set out in that schedule under section 64 EAPWDR as emergency dental services. Since the root canal is not set out in the emergency schedule the ministry covered the root canal with the remaining funds (\$5.22) in the appellant's dental supplement under the Schedule for Fee and Allowance-Dentist.

The appellant argued that she went to see the dentist (April 3rd) because she was in pain (tooth #35) and she could not chew solid foods. The appellant argued that she does not understand that if she was in pain why all the dental costs for her emergency treatment would not have been covered.

Section 64 states the ministry may provide Emergency Dental supplements in accordance with Schedule C, section 5 EAPWDR. Emergency dental service is defined in Schedule C, section 1 as a service that is necessary for the immediate relief of pain that is provided by a dentist and is set out in Schedule of Fee Allowances-Emergency Dental-Dentist.

The panel notes that in Part C, Schedule of Fee Allowances-Emergency Dental-Dentist the preamble states "Emergency Dental and Denture Supplements is available for all eligible Ministry of Housing and Social Development clients, including those who do not have a 2-year limit under the Ministry's Dental Supplements or those who have exhausted their limit. ... Emergency Dental allows for the treatment of an eligible person who needs immediate attention to relieve pain, or to control infection or bleeding or if a person's health or welfare is otherwise immediately jeopardized. Each emergency visit is restricted to the procedures and limitations outlined in this schedule. Services outside this schedule will not be covered and any work beyond the immediate relief of pain will not be considered.

Prior to Reconsideration, the ministry did contact the appellant's dental office to determine if the services provided on June 26th and July 12th were emergency dental services. The ministry was informed that the procedures provided were indeed emergency dental services and provided coverage for the dental services in accordance with the fee schedule set out in the Schedule of Fee Allowances-Emergency Dental-Dentist.

The panel finds that the ministry's interpretation of the legislation set out in the Schedule of Fee Allowances-Emergency Dental-Dentist not to provide the root canal treatment on tooth #35 under Schedule of Fee Allowances – Emergency Dental – Dentist but to provide this service under Schedule of Fee Allowances-Dentist was a reasonable application of the EAPWD regulation and the ministry's decision reasonable.

The panel finds that an Occlusal adjustment/Equilibration is set out in the Schedule of Fee Allowances-Dentist (fee code 16511) and not under the Schedule of Fee Allowances – Emergency Dental – Dentist. The panel notes the appellant's basic dental supplement was expended and therefore the ministry was not able to provide coverage for this service under Schedule of Fee Allowances-Dentist.

The panel finds that the ministry has no authority to cover emergency dental services that are not set out in the emergency dental schedule and therefore the ministry's decision not to cover the Occlusal adjustment/Equilibration under the Schedule of Fee Allowances-Emergency Dental-Dentist was reasonable.

In reference to Eligibility For Fees In Excess of the Ministry Rates for Emergency Dental Services -

The ministry argued there is no authority to provide coverage for dental service fees in excess of those set out in the Schedule of Fee Allowances. The ministry argued section 64 EAPWDR states the ministry may provide health supplements; Schedule C, section 5 EAPWDR regulates that the service provided by a dentist must be set out in the Schedule of Fee Allowance-Emergency Dental - Dentist and is provided at the rate set out in that schedule.

The appellant argued that she does not understand that if she is in pain why the service would not be covered, that she has no funds to pay for the dental treatment she required on an emergency basis.

Schedule C, section 5 EAPWDR states that the ministry can only provide coverage for services set out in the Schedule of Fee Allowances-Emergency Dental-Dentist and, as defined in section 1 of Schedule C, as being services provided at the rate set out in the Schedule of Fee Allowances.

The panel finds the ministry's decision not to provide coverage for fees in excess of the fee set out in the Schedule of Fee Allowances (difference between appellant's dentist fee and ministry rate) and further, the decision not to provide coverage for services (root canal, etc) not set out in the Schedule of Fee Allowances – Emergency Dental – Dentist was reasonable.

The panel finds that the ministry's reconsideration decision is a reasonable interpretation of the legislation and is supported by the evidence and confirms the decision pursuant to section 24(1)(b) and 24(1)(a) of the Employment and Assistance Act.