

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision of August 28, 2012, which denied the appellant's request for a dental supplement to cover the costs of root canal (tooth number 25). The ministry concluded that it is not authorized to provide coverage for procedures in excess of the frequency limits associated with each service set out in the Notes of the Schedule of Fee Allowances – Dentist. Furthermore the ministry concluded that it is not authorized to provide coverage for services not set out in the Schedule of Fee Allowance – Dentist or Emergency Dental – Dentist pursuant to Section 62(1), 63(1) and 64(1) of the Employment and Assistance for Persons with Disabilities Regulation, EAPWDR, Section 1, 4 and 5 of the Schedule C of the EAPWDR and Schedule of Fee Allowance – Dentist.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 62, 63 and 64

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 1, 4 and 5 of the Schedule C

Schedule of Fee Allowance - Dentist

PART E – Summary of Facts

The appellant did not attend the hearing. After confirming that the appellant had been notified of the hearing, the panel proceeded with the hearing in accordance with s. 86(b) of the Employment and Assistance Regulation.

The information before the ministry at the time of reconsideration included the following:

- Dental Pre-Authorization Remittance Statement dated July 12, 2012;
- Request for Reconsideration form signed by the appellant on August 16, 2012;

Information subsequently put before the appeal panel included the following:

- The Notice of Appeal dated September 7, 2012.

The amount of treatment plan for tooth number 25 is noted in the Dental Pre-Authorization Remittance Statement dated July 12, 2012 for the total amount of \$1230.00. The appellant's dentist coded numbers 33125 and 25783 as the fee items for the requested treatment.

In the written submission included with her Request for Reconsideration, the appellant wrote "my tooth has been abscessed (abscessed) for at least six months. This was the same tooth that I had a previous root canal. The tooth has now deteriorated and became abscessed". The appellant stated that she needs further works by a specialist and then a crown "to be fixed and prevent further complications". The appellant said that she is a single mother on disability and cannot afford to pay for these procedures.

In her Notice of Appeal, the appellant stated that she needs this dental work as her tooth is causing her pain. She said that she is a single mother on disability and needs this dental work. The appellant said that she believes the ministry has helps in the past and she is not sure how she could be paying for the treatment without the ministry's assistance.

At the hearing, the ministry relies on its reconsideration decision and did not provide any new evidence. The ministry states that the legislation provides \$1000 limit for basic dental services in one period. The current period extends from January 1, 2011 to December 31, 2012. The ministry states that the appellant's available balance for basic dental services is \$ 89.50 as she has used \$910.50 of her allowance for dental treatment in the current period.

The ministry further states that the \$1000 limit may be exceeded if the need for Emergency Service is identified, however, the ministry submits that the requested dental procedure (root canal) is not for the immediate relief of pain and therefore is not eligible for the provision of emergency of emergency dental services. The ministry further states the Schedule of Fee Allowance – Dentist defines that root canal therapy is paid once per tooth per lifetime on permanent teeth. The appellant has already exhausted her root canal therapy on the same tooth (number 25) and as such she is not eligible for a root canal therapy for the same tooth.

The panel makes the following findings of fact:

- a- The appellant has used \$910.50 of a maximum of \$1000 allowance for dental treatment in the

current period.

- b- The root canal treatment, requested by the appellant's dentist is not listed services in the Schedule of Fee Allowances- Dentist and Emergency Dental.
- c- The appellant had a root canal therapy on the same tooth (number 25) in the past. .

PART F – Reasons for Panel Decision

The issue on this appeal is whether the ministry's decision to deny the appellant's request for a dental supplement to cover the costs of root canal (tooth number 25), was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant. In particular, was the ministry reasonable in determining that the appellant's request was in excess of the frequency limits associated with each service and that the requested supplement is not set out in the Schedule of Fee Allowances - Dentist or Emergency Dental – Dentist?

The relevant legislation is as follows:

..... Under section 62(1)(a) of the EAPWDR, the minister may provide any health supplement set out in section 2 [general health supplements] of Schedule C to or for a person who is a recipient of disability assistance.

..... Under section 63 of the EAPWDR, the minister may provide any health supplement set out in section 4 [dental supplements] of Schedule C to or for a person who is eligible for health supplements under section 62(1)(a) to (d).

..... Section 64 of the EAPWDR allows for the provision of health supplements set out in section 5 [emergency dental and denture supplements] of Schedule C to or for a person who is eligible under section 62(1).

..... Section 1 of Schedule C of the EAPWDR defines "basic dental service" as a dental service set out in the Schedule of Fee Allowances that is provided by a dentist at the rate set out in that Schedule and "emergency dental service" as a dental service that is set out in the Schedule of Fee Allowances – Emergency Dental necessary for the immediate relief of pain that is provided by a dentist at the rate set out in that Schedule.

..... Section 4 of Schedule C provides that health supplements under section 63 [dental supplements] are basic dental services to a maximum of \$1,000 for a specified 2 year period.

..... Section 5 of Schedule C provides that emergency dental services may be paid under section 64 [emergency dental and denture supplements].

The ministry's position, as stated in its reconsideration decision, is that according to the appellant's dentist, she needs root canal therapy. The Schedule C, Section 4(1.1) of the EAPWDR stipulates that the health supplements that may be paid pursuant to Section 63 (dental supplements) are to a maximum of \$1000 for every 2 years. The current period extends from January 1, 2011 to December 31, 2012. The appellant has used \$910.50 of her allowance for this period and as such payment toward her root canal treatment will exceed the \$1000 limit.

Furthermore, the ministry states that the appellant's root canal treatment is not an emergency service for which payment is provided under the legislation. The ministry states that the legislation allows payment for root canal therapy once per tooth per lifetime on permanent teeth and the appellant has already had root canal therapy on tooth number 25. The ministry further submitted that the fee codes submitted by the appellant's dentist are not set out in the Schedule of Fee Allowances – Dentist and the ministry is not authorized to provide coverage for services not set out in the legislation.

The appellant's position as set out in her written submission is that she has been suffering for at least six months as her tooth has been abscessed. She needs further work by a specialist and then needs to have a crown to prevent further complications. The appellant submitted that she is a single mother on disability and is unable to pay for the treatment.

In reviewing the ministry's reconsideration decision, the panel has examined the legislative provisions respecting the provision of "basic" and "emergency" dental services. The panel notes that:

- Sections 63 and 64 of the EAPWDR allow for the provision of health supplements in the form of dental supplements under section 4 [basic dental] and 5 [emergency dental] of Schedule C of the EAPWDR;
- The definitions of both "basic" and "emergency" dental services provided in section 1 of Schedule C of the EAPWDR and defines
 - a- basic dental service, as a dental service set out in the Schedule of Fee Allowances is provided by a dentist at the rate set out in that Schedule, and
 - b- emergency dental service, as a dental service that is set out in the Schedule of Fee Allowances – Emergency Dental necessary for the immediate relief of pain that is provided by a dentist at the rate set out in that Schedule.

In respect to the appellant's request, the panel finds that the root canal therapy is paid once per tooth per life time on permanent teeth as defines in the Schedule of Fee Allowances – Dentist and that the appellant has used her root canal therapy on tooth number 25 already. Furthermore, the panel finds that the appellant has used \$910.50 of a maximum of \$1000 of her allowance for basic dental services for the current period and that the fee for root canal is not set out in the Schedule of Fee Allowance – Dentist.

The panel finds that the decision of the ministry to deny the appellant's request for root canal treatment was reasonable since the request treatment is not listed services in the Schedule of Fee Allowances and it is not a service for which the ministry may provide coverage. Furthermore, the panel finds that the ministry was reasonable denying the appellant's request for root canal therapy on tooth number 25 as the appellant has had a root canal therapy on the same tooth.

Accordingly, the panel confirms the ministry's reconsideration decision as being a reasonable application of the applicable enactment in the circumstances of the appellant.