

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision dated October 24, 2012 which held that the appellant was not eligible for reimbursement of \$200.62 representing the difference between what the ministry paid in accordance with the Ministry of Social Development fee Schedule – Dentists, for dental services provided to the appellant in September 2012 and the amount charged by the dental practitioners providing the service. In addition, the ministry was not able to grant a reconsideration decision for payment concerning a request for crowns on tooth numbers 11 and 12 because a request had not yet been submitted to Pacific Blue Cross, the insurance plan carrier, for pre-approval of these procedures.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Act (EAPWDA),
Section 16 Reconsideration and appeal rights

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR),
Section 63 Dental Supplement, Section 63.1 Crown and bridgework supplement
Schedule C, Health Supplements Section 1, Definitions and Section 4, Dental supplements

Schedule of Fee Allowance - Dentist (fee allowance)

PART E – SUMMARY OF FACTS

The hearing proceeded by written submissions with the consent of both parties.

The ministry informed the Tribunal via e-mail that its submission in this matter is the reconsideration summary package.

The records before the ministry at the time of reconsideration included the following documents.

- Pacific Blue Cross records showing dental claims history showing all the dental work done on September 10 and September 12 to be approved and paid at 100% of the fee allowance.
- Pacific Blue Cross record of Dental Benefit Eligibility indicating the appellant has \$598.32 remaining of the \$1,000 combined limit for basic and major dental services. This report also indicates that the next date for eligible full benefit is January 1, 2013.
- Patient receipts made out to the appellant showing payments made on September 11, 2012 for \$50.35 and on September 12 for \$150.27 for a total of \$200.62 for the same dental work itemized in the Pacific Blue Cross records.
- An estimate dated September 12 for Porcelain Crown work on tooth 11 and 12 each totaling \$1,075 for a total of \$2,150.00
- An e-mail log note dated October 23, 2012 from the ministry to Pacific Blue Cross asking if the dentist has applied for pre-approval of the crowns. The response, contained in the same log, states Pacific Blue Cross has not been sent anything for pre-authorization and adding the fee number listed 27201 isn't a ministry fee number.

The appellant's written submission included the following documents.

- A letter dated from the appellant's brother-in-law, acting as his representative, stating that information had been sent from the dentist's secretary on November 8, 2012 and asking if it is possible for any of the amount paid by the appellant to be put towards a claim in 2013.
- A letter from the dentist dated October 31, 2012 stating the appellant's brother-in-law had asked if they would provide treatment at the ministry fees and responding that they would not provide services at those rates.
- A notation on the October 24th ministry reconsideration cover letter stating the request for crowns on tooth numbers 11 and 12 has been submitted to Pacific Blue Cross November 1, 2012.

The panel determined the letter from the dentist dated October 31, 2012 is admissible under section 22(4) of the *Employment and Assistance Act (EAA)* as it is in support of the records before the minister at reconsideration.

The panel accepts the letter from the appellant's brother-in-law and the notation on the October 24th ministry reconsideration cover letter as argument that will be addressed in the reasons for decision.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is two-fold: whether the ministry acted reasonably in determining the appellant was not eligible for reimbursement of \$200.62 representing the dental supplement paid by the ministry and the amount charged by the dental practitioners providing the service; and whether the ministry acted reasonably in not granting a reconsideration decision for payment concerning a request for payment of two crowns on tooth numbers 11 and 12.

The relevant legislation is set out in the following legislation:

Employment and Assistance for Persons with Disabilities Regulation

Dental supplement

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

(B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(a) section 62 (1) (a), (b) (iii), (d) or (e) [general health supplements],

(b) section 62 (1) (b) (i), (d.1), (d.3) or (f), 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,

(B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(c) section 62 (1) (b) (ii), or (d.2), (B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(c.1) section 62 (1) (c), or

(d) section 62 (1) (g).

Crown and bridgework supplement

63.1 (1) Subject to subsections (1.1) and (1.2), the minister may provide a crown and bridgework supplement under section 4.1 of Schedule C to any of the following persons:

(a) a recipient of disability assistance;

(b) a person with disabilities who has not reached 65 years of age and who has ceased to be eligible for disability assistance because of

(i) employment income earned by the person or the person's spouse, if either the person or the person's spouse

(A) is under age 65 and the family unit is receiving premium assistance under the *Medicare Protection Act*, or

(B) 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,

(B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(ii) a pension or other payment under the Canada Pension Plan (Canada);

(c) a person with disabilities who was a recipient of disability assistance on the day he or she became 65 years of age;

(d) a person referred to in section 62 (1) (f), 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, or

(B.C. Reg. 67/2010)(B.C. Reg. 114/2010)

(e) a person whose family unit ceases to be eligible for disability assistance because of financial assistance provided through an agreement under section 12.3 of the *Child, Family and Community Service Act*, during the term of the agreement.

(1.1) A person eligible to receive a crown and bridgework supplement under subsection (1) (b) (ii) may receive the supplement

(a) while any person in the family unit is

(i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or

(ii) aged 65 or more and 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.

(B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(1.2) A person eligible to receive a crown and bridgework supplement under subsection (1) (c) 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.

(B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(1.3) A person who was eligible to receive a crown and bridgework supplement under subsection (1) (b) (i) or (d) 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.

(B.C. Reg. 114/2010)

(2) Repealed (B.C. Reg. 67/2010)

SCHEDULE C Health Supplements

Definitions

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

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)

Crown and bridgework supplement

4.1 (1) In this section, "crown and bridgework" means a dental service

- (a) that is provided by a dentist, (B.C. Reg. 94/2005)
- (b) that is set out in the Schedule of Fee Allowances - Crown and Bridgework, that is effective April 1, 2010 and is on file with the deputy minister, (B.C. Reg. 315/2006) (B.C. Reg. 65/2010)
- (c) that is provided at the rate set out for the service in that Schedule, and
- (d) for which a person has received the pre-authorization of the minister.

(2) A health supplement may be paid under section 63.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the person has a dental condition that cannot be corrected through the provision of basic dental services because

- (a) the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances - Dentist, and (B.C. Reg. 94/2005)
- (b) one of the following circumstances exists:
 - (i) the dental condition precludes the use of a removable prosthetic;
 - (ii) the person has a physical impairment that makes it impossible for him or her to place a removable prosthetic;
 - (iii) the person has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic.
 - (iv) the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.

(3) The minister must also be satisfied that a health supplement for crown and bridgework will be adequate to correct the dental condition.

(4) A health supplement for crown and bridgework may not be provided in respect of the same tooth more than once in any period of 60 calendar months. (B.C. Reg. 430/2003)

Employment and Assistance for Persons with Disabilities Act

Reconsideration and appeal rights

16 (1) Subject to section 17, a person may request the minister to reconsider any of the following decisions made under this Act:

- (a) a decision that results in a refusal to provide disability assistance, hardship assistance or a supplement to or for someone in the person's family unit;
- (b) a decision that results in a discontinuance of disability assistance or a supplement provided to or for someone in the person's family unit;
- (c) a decision that results in a reduction of disability assistance or a supplement provided to or for someone in the person's family unit;
- (d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of
 - (i) the maximum amount of the supplement under the regulations, and
 - (ii) the cost of the least expensive and appropriate manner of providing the supplement;



(e) a decision respecting the conditions of an employment plan under section 9 [employment plan].

(2) A request under subsection (1) must be made, and the decision reconsidered, within the time limits and in accordance with any rules specified by regulation.

In the Request for Reconsideration and the Notice of Appeal the appellant puts forward the following position; the appellant is badly in need of repair to his teeth and he does not have the money to pay for those repairs. The appellant further states that he will look for a dentist charging a reasonable rate according to the government guidelines, \$624.20 per crown as opposed to the \$1,075.00 per crown contained in his dental practitioner's estimate, which if both were approved would leave a total above the fee allowance of \$901.60 to be paid by the appellant.

In the Notice of Appeal the appellant's representative states that he understands the dentist has applied for pre-approval of the crowns, that the appellant does not have the money to pay for them and asks if it is possible for any of the amount paid by the appellant to be put towards a claim in 2013.

The ministry relies on the reconsideration decision. In that decision, the ministry determined that they could not pay for fees in excess of the Schedule of Fee Allowances - Dentist for basic dental services provided on September 10 and 12, 2012. At the time of the reconsideration decision Pacific Blue Cross, the insurance carrier had not received a pre-authorization request for the two crowns; therefore the ministry was unable to proceed with the reconsideration request because no decision had been made.

The panel finds with respect to the \$200.62 paid by the appellant for dental fees charged by the dental practitioners over the Schedule of Fee Allowances - Dental Schedule there is no provision in the legislation for extra payments above the rate based on the definition of basic dental services, in the EAPWDR, Schedule C Section 1, "basic dental service". The appellant's dental practitioners were paid 100% of the basic services rendered. The panel therefore finds the ministry's determination was a reasonable application of the applicable enactment in the circumstances of the appellant and thus confirms the ministry decision.

The legislation around payment for crowns specifies the need for the dental practitioner to receive pre-authorization by the minister through Pacific Blue Cross, the insurer. There was no new evidence brought forward that a request for pre-authorization of the proposed two crowns as required by the legislation. Because there has been no request for pre-authorization, there has been no denial by the ministry, therefore the ministry acted reasonably in not granting a reconsideration decision pursuant to EAPWDA, Section 16, concerning a request for payment of two crowns on tooth numbers 11 and 12. The panel finds the ministry's determination was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the ministry decision.