

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision of April 18, 2013, which denied the appellant's request for a dental supplement to cover the costs of bridgework for tooth numbers 23, 24, and 25. The ministry concluded that the appellant's request does not meet the legislated eligibility requirements set out in Schedule C, section 4.1(2)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Furthermore the ministry concluded that it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Crown and Bridgework.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 63.1
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 4.1 of the Schedule C
Schedule of Fee Allowance – Crown and Bridgework

PART E – Summary of Facts

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

- A letter from a health case manager to the ministry dated October 10, 2012;(Case Manager)
- Standard Dental Claim Form completed by the appellant's first dentist on November 22, 2012; (Dentist A)
- A letter from Pacific Blue Cross to Dentist A dated December 13, 2012; (PBC)
- Standard Dental Claim Form completed by the appellant's current dentist on January 31, 2012Form; (Dentist B)
- X-rays dated January 29, 2013;
- An undated pre-screening crown and bridge case profile sheet;
- A letter from PBC to Dentist B requesting information on February 6, 2013;
- An unsigned, undated response by Dentist B.;
- PBC letter to the Dentist B. dated March 1, 2013;
- Dental Pre-Authorization Remittance Statement dated March 2, 2013;
- Request for Reconsideration form signed by the appellant on April 4, 2013.

Information subsequently put before the appeal panel included the following:

- The Notice of Appeal dated April 29, 2013.

In the October 10, 2010 letter, the Case Manager recommended that the appellant receive financial assistance for dental work due to having pain and having difficulty eating.

Dentist A, in the November 22, 2012 claim form stated "No x-ray sent, tooth # 24 for extraction. Unable to provide age of existing crowns on (#24 needs exo) and #25."

In December 13, 2012 letter, PBC requested information including recent mounted bitewing x-rays, list of all teeth missing, explanation as to necessity for crown/bridge requests and relevant information regarding the appellant's medical condition.

On the January 31, 2013 claim form, Dentist B wrote "24 has to be extracted, this cannot be saved. She needs bridge to provide form function + replace missing tooth. Please see x-ray".

Dentist B made notes on the PBC request dated February 6, 2013 stating the following:

- a) List of all teeth missing - non
- b) Date and condition of any existing prosthesis and teeth involved - never had one extracted yet
- c) Tooth numbers, procedure codes and fee amount - (exo) 24
- d) Explanation as to necessity for crown/bride request - to replace missing 24, one tooth
- e) Relevant information regarding the client's medical conditions that would support the need for a crown or bridge - our record show there is no contra indication for bridge to replace the missing tooth.

The total amount of treatment plan for tooth numbers 23, 24 and 25 is noted in the Dental Pre-Authorization Remittance Statement dated March 2, 2013 for the amount of \$ 2519.35. Dentist B coded numbers 67211, 62501, and 67211 as the fee items for the requested treatment.

In the written submission included with her Request for Reconsideration, the appellant wrote

"a person with PWD gets \$1000 for 2 years of dental work. During the years pass by...The number of the needs and works gets add on, and gets: worse and worse. My dental needs has cuse (sic) me: pain + stomach ulcer + blood + low self-confidence". The appellant further wrote that she cannot chew or eat.

In her Notice of Appeal, the appellant wrote that she likes to be an example for the Government to save more money on the health expenses. The appellant wrote that "*the dentistry's law need to be changed*".

At the hearing, the appellant sought to introduce a written submission and copies of her written communications with different Government agencies. The appellant wrote that she is writing for changing laws for helping disabled and or the Government of Canada to save money. She wrote that her bad teeth have caused her stomach problems because she can't chew her food properly. She is requesting to increase the annual allowable dental supplement to \$6000 and to arrange for free dental work for disabled people and that every dentist in the province to have a charity practice.

The panel advised the appellant that it must follow the legislation, the Tribunal Practices and Procedures established by the Tribunal Chair and that this hearing is about the appellant's appeal of the reconsideration decision of April 18, 2013. The panel informed the appellant that it has no jurisdiction in changing or requesting to change the legislation. The panel noted that much of the evidence in the submission was part of the appellant's request for reconsideration. Therefore, the panel admitted the written submission under subs. 22(4) of the EAA as being in support of the evidence that was before the ministry on reconsideration.

At the hearing, the appellant said that the only reason she appealed the ministry's decision is to forward her request for changing the legislation to the Government. She said that she has been suffering from dental problems for more than five years. The appellant said that recently she had to change her dentist as her first dentist did not assist her in completing her forms for the reconsideration decision. The appellant further said that her current dentist did not provide an option for extracting the problem teeth and using partial dentures.

The ministry relies on the reconsideration decision. It submitted that the legislation is clear and s. 4.1(2) of the Schedule C stated that the ministry may pay for bridgework only if the person's dental condition cannot be corrected through the provision of basic dental services. The ministry said that the appellant's dentist, despite two requests, has not submitted reasons why treatment requested cannot be met through the Basic Dental Program nor explained the necessity for the dental work requested.

PART F – Reasons for Panel Decision

The issue in this appeal is the ministry's decision to deny the appellant's request for a dental supplement to cover the costs of bridgework for tooth numbers 23, 24, and 25. The ministry concluded that the appellant's request does not meet the legislated eligibility requirements set out in Schedule C, section 4.1(2)(b) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). Furthermore the ministry concluded that it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Crown and Bridgework.

The relevant legislation is as follows:

EAPWDR

Section 63.1(1) Crown and bridgework supplement

..... 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,
 - (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
- (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.

(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.

(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.

..... 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 4.1(1) of Schedule C states that "**crown and bridgework**" means a dental service

- (a) that is provided by a dentist,
 - (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 office of the deputy minister,
 - (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) 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.

The ministry's position is that based on the available information, the ministry is unable to approve bridgework for the appellant. The appellant's dentist has not provided relevant information regarding her medical conditions that would support the need for a bridge nor did he provide information as to why treatment needs are not met through the Basic Dental Program; specifically, information establishing that one of the circumstances set out in S4.1(2)(b) of Schedule C exists which preclude

the use of a removable prosthetic. The ministry further submitted that the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Crown and Bridgework.

The appellant stated that she does not dispute the ministry's decision, but argues that the legislation must be changed in order to assist people with disability and save money for the government.

The panel noted that it does not have jurisdiction to propose changes to the legislation.

In reviewing the ministry's reconsideration decision, the panel has examined the legislative provisions respecting s. 4.1(2) of the EAPWDR. In this appeal, the appellant sought the minister's approval for bridgework for tooth numbers 23, 24 and 25.

The panel finds that the information provided by the appellant's dentist does not provide information to establish that the appellant's dental condition precludes the use of a removable prosthetic.

Furthermore, the panel finds that there is insufficient evidence indicating that the appellant has a mental impairment that makes it impossible for her to place or to resume responsibility for a removable prosthetic.

The panel further finds that the total amount of treatment plan for tooth numbers 23, 24 and 25 that is noted in the Dental Pre-Authorization Remittance Statement dated March 2, 2013, is in excess of the rates set out in the Schedule of Fee Allowance and therefore, it is not authorization under the legislation.

Accordingly, the panel finds that the decision of the ministry denying the appellant's request for a dental supplement to cover the costs of bridgework for tooth numbers 23, 24, and 25 is reasonably supported by the evidence and it is a reasonable application of the relevant legislation in the circumstances of the appellant.

The panel confirms the ministry's decision.