

### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the ministry) reconsideration decision of April 26, 2013, which denied the appellant's request for \$333.62, representing fees for dental services for which she was not eligible at the time they were provided. The ministry determined that at the time the dental services were provided, scaling and polishing, January 22, 2013, and a root canal, January 28, 2013, the appellant was eligible to receive emergency dental services only. The ministry further determined that as the services in question are not set out in the Schedule of Fee and Allowances-Emergency Dental-Dentist, they are not authorized to provide coverage.

### PART D – Relevant Legislation

Employment and Assistance Act (EAA) sections 1 and 4  
Employment and Assistance Regulation (EAR) sections 67, 68 and 70  
Employment and Assistance Regulation, Schedule C, section 6  
Schedule of Fee Allowances- Emergency--Dental-Dentist

### PART E – Summary of Facts

A witness attended the hearing at the request of the appellant.

Information and records before the ministry at the time of their reconsideration decision include:

- A 3 page faxed copy of the appellant's Pacific Blue Cross (PBC) Dental Remittance Statements for the month of January 2013, faxed to the ministry by the appellant's dentist's office March 7, 2013.
- A Request for Reconsideration signed by the appellant April 4, 2013.

The appellant's PBC Dental Remittance Statements for the month of January 2013, show the following:  
January 2013

Fee Code 01204-Specific Exam-Dentist Fee \$21.75 Ministry Rate \$21.75

Fee Code 02112-Peripheral X-Rays-Dentist Fee 13.59 Ministry Rate \$13.59

January 22, 2013

Fee Code 11112-Scaling-Two Units, Dentist Fee \$44.34 Ministry Rate \$00.00

Fee Code 11117-Scaling ½ Unit, Dentist Fee \$11.08 Ministry Rate \$00.00

Fee Code 11107-Polishing, Dentist Fee \$24.03 Ministry Rate \$00.00

January 28, 2013

Tooth No.12 -Fee Code 33111-Root Canal-Dentist Fee \$254.17 Ministry Rate \$00.00

Tooth No.12-Fee Code 23111-White Filling-Dentist Fee \$75.47 Ministry Rate \$75.47

January 29, 2013

Tooth No.35-Fee Code 23312-White Filling-Dentist Fee \$122.65 Ministry Rate \$122.65

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Total Billed by Dentist	\$567.08
Total Paid by Ministry	\$233.46
Difference to be paid by patient	\$333.62

Ministry records report that:

1. These services are not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist. The ministry is not authorized to provide coverage for services that are not set out in that Schedule.
2. Root Canals are not set out in the Schedule of Fee and Allowances-Emergency Dental-Dentist. The ministry is not authorized to provide coverage for services that are not set out in that Schedule.

Ministry records further report that:

- On January 30, 2013, the appellant contacted the Provincial Services Contact Centre (PSCC) to enquire about her dental coverage. The appellant reported that she had been PPMB but was switched to Hardship Pending Employment Insurance (EI); the dentist checked and advised the appellant that she was only eligible for emergency dental at this time and as she had been to the dentist twice in January she would now have a bill for dental work.
- On January 30, the ministry contacted the appellant and advised that her eligibility was being reviewed month to month because of information received from EI.
- On March 5, 2013, the appellant contacted PSCC and reported that she went to the dentist and ended up with a bill because PBC stated she only had emergency dental.
- On March 7, 2013, the appellant attended a meeting with the ministry at which time it was suggested

that the coverage might be "back dated", but if that wasn't possible, reconsideration was available. The appellant reported that the emergency fillings were covered but not the root canal or the cleaning.

- On April 4, 2013, the appellant picked up her reconsideration package prepared by the ministry.
- On April 5, 2013, the ministry received the appellant's Request for Reconsideration, which was submitted to the Health Assistance Branch instead of the Reconsideration Branch.
- On April 22, 2013, the appellant's Request for Reconsideration was submitted to the Reconsideration Branch.

In Section 3 Reasons for Request for Reconsideration the appellant wrote, I am asking for this reconsideration because when my file was re-opened December 17, 2012, I was told I was back on PPMB and my medical and dental were all good and I could go through with my booked appointments in January. The bill is \$333.62 outstanding for a root canal and teeth cleaning. I don't have that kind of money. I was wondering if this payment can be taken out of \$1000.00 I'm allowed for dental. I was notified of this not being paid after the work was done, and the dental company can't re-date the work to have been done in February instead of January because they already sent the bill in to be paid with January dates.

### Background

Ministry records indicate that in September 2012, the appellant reported earnings that exceeded the amount for which she was eligible under Schedule A of the EAR as well as the earnings exemption of \$500.00 available to those who have Person with Persistent Multiple Barrier (PPMB) status. The appellant did not receive income assistance in October 2012, and in addition she did not receive income assistance in November, as her earnings in October exceeded the amount for which she would have been eligible and the earnings exemption did not apply, as she had not received income assistance in the previous month.

In December 2012, the appellant reapplied for income assistance. She informed the ministry that her hours had been reduced by her employer and that she intended to apply for Employment Insurance (EI). She was advised that she would be required to submit proof that she had applied for EI in order to receive January assistance. Her file was transferred to the PPMB caseload however; her status at that point was Hardship Code C, which means Hardship assistance pending receipt of EI. The appellant received Hardship Code C assistance during the month of January 2013.

After the Reconsideration Decision, and prior to the hearing, the appellant provided a written argument, in the Reasons Section of her Notice of Appeal, as to why she believes the ministry's decision to not pay all of her January dental bills was unreasonable.

At the hearing the appellant provided argument regarding her eligibility for dental coverage with the ministry during the month of January 2013, and also disputed the validity of some information contained in the ministry record. The appellant submitted a 1 page untitled copy of a ministry MSP information sheet date stamped by the ministry February 5, 2013, and a 1 page hand written chronology of her interactions with the ministry, her dentist and PSCC during the months of December 2012, and January February and March 2013.

The ministry stood by the record at the hearing stating that although the appellant's file was transferred to the PPMB caseload when it was reopened in December 2012; her status was Hardship Code C which means hardship assistance pending receipt of EI. The ministry further stated that the appellant remained in this status during the month of January 2013, and that the legislation provides that the only dental service a recipient of Hardship Code C assistance is entitled to receive is emergency dental. The ministry stated it had no record as to

who had suggested back dating the dental services.

The panel made the following findings of Fact:

- During the month of January 2013, the appellant was in receipt of Hardship Code C assistance and was eligible for emergency dental services as set out in the Schedule of Fee Allowances-Emergency Dental-Dentist, at ministry rates.
- On January 17, 2013, the appellant's Specific Exam (01204) cost \$21.75, Peripheral X-Rays (02112) cost \$13.59 paid for in full by the ministry as set out in the Schedule of Fee Allowances-Dentist or Emergency Dental-Dentist.
- On January 22, 2013, the appellant received the following services from her dentist, Scaling Two Units (11112) cost \$44.34, Scaling ½ Unit (11117) cost \$11.08, Polishing (11107) cost \$24.03 none of which is set out in the Schedule of Fee Allowances-Dentist or Emergency Dental-Dentist.
- On January 28, 2013, the appellant received a Root Canal-One Canal Tooth No.12 (33111) cost \$254.17 which is also not set out in the Schedule of Fee Allowances-Dentist or Emergency Dental-Dentist.
- On January 28, 2013, the appellant received a White Filling Tooth No. 12 (23111) cost \$75.47 paid for in full by the ministry as set out in the Schedule of Fee Allowances-Dentist or Emergency Dental-Dentist.
- On January 29, 2013, the appellant received a White Filling Tooth No. 35 (23312) cost \$122.65 47 paid for in full by the ministry as set out in the Schedule of Fee Allowances-Dentist or Emergency Dental-Dentist.
- The appellant is currently responsible for a total of \$333.62 for dental services she received in the month of January 2013, which were not covered by the ministry.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the ministry's decision which denied the appellant's request for \$333.62, representing fees for dental services for which she was not eligible at the time they were provided, was reasonable. The ministry determined that at the time the dental services in question were provided, scaling and polishing, January 22, 2013, and a root canal, January 28, 2013, the appellant was eligible to receive emergency dental services only. The ministry further determined that as the services in question are not set out in the Schedule of Fee and Allowances-Emergency Dental-Dentist, they are not authorized to provide coverage.

### Section 1 EA Act

**supplement**" means any form of assistance specified by regulation, other than income assistance, hardship assistance or financial assistance provided under section 6 [*financial assistance to service or program providers*] and, without limitation, includes access to programs established or funded under this Act;

### Income assistance and supplements

4 Subject to the regulations, the minister may provide income assistance or a supplement to or for a family unit that is eligible for it.

### Employment and Assistance Regulation

#### General health supplements

67 (1) Subject to subsection (1.1), 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

(a) is a recipient of income assistance under section 2 [*monthly support allowance*], 4 [*monthly shelter allowance*], 6 [*people receiving room and board*] or 9 [*people in emergency shelters and transition houses*] of Schedule A if

(i) any person in the family unit is a person who has persistent multiple barriers to employment, and

(ii) the recipient does not receive a federal spouse's allowance or guaranteed income supplement benefits.

(iii) Repealed. [B.C. Reg. 57/2007, s. 1.]

#### Dental supplements

68 (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

(a) a person referred to in section 67 (1) (a) [*general health supplements*],

(a.1) a person referred to in section 67 (1) (f),

(a.2) a person referred to in section 67 (1) (c) (iv) or (h), 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) a dependent child of a recipient of income assistance or hardship assistance,

(c) a person referred to in section 67 (1) (b) if the person, or an adult dependant of the person, is a person who has persistent multiple barriers to employment,

(d) an adult dependant of a person referred to in section 67 (1) (b) if the adult dependant or the person referred to in that provision is a person who has persistent multiple barriers to employment, or

(e) an adult dependant of a person referred to in section 67 (1) (f).

### Emergency dental and denture supplements

70 (1) Subject to subsection (2), the minister may provide any health supplements set out in section 6 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 income assistance under Schedule A,

(b) a recipient of hardship assistance under Schedule D,

(c) a person referred to in section 67 (1) (f) [*general health supplements*],

(c.1) a person referred to in section 67 (1) (h), 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,

(d) a person referred to in section 72 [*dental and optical supplements — healthy kids program*],

(e) a dependant of a person referred to in paragraph (a) or (b),

(f) a dependant of a person referred to in paragraph (c), or

(g) a dependant of a person referred to in paragraph (c.1), if the dependant is a dependant of the person referred to in paragraph (c.1) on the day the person's family unit ceased to be eligible for income assistance, and any person in the family unit

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

(ii) 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.

(2) A person eligible to receive a health supplement under subsection (1) (c) or (f) 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.
- (3) A person who was eligible to receive a health supplement under subsection (1) (c.1) or (g) 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.

[am. B.C. Regs. 170/2008, App. 1, s. 6; 67/2010, Sch. 1, s. 6; 114/2010, Sch. 1, s. 7.]

### Schedule C

"emergency dental service" 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, and
- (b) if provided by a denturist,
  - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Denturist, 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;

### Emergency dental supplements

6 The health supplements that may be paid for under section 70 [*emergency dental and denture supplements*] of this regulation are emergency dental services.

#### The ministry's position

While the ministry chose neither to challenge nor confirm the appellant's arguments regarding what she was or was not told by the ministry in December 2012, the ministry argued that no matter what the appellant believes she was told, the fact remains that there is no dispute that she was in receipt of Hardship Code C assistance during the month of January 2013 at the time the dental services in question were provided, and was therefore eligible to receive emergency dental services only as set out in the EAR, subsection 70 (1)(b). The ministry argues that because Scaling Two Units (11112), Scaling ½ Unit (11117) Polishing (11107) and Root Canal-One Canal (33111) are not emergency dental services set out in the Schedule of Fee and Allowances -- Emergency Dental-Dentist the appellant was not eligible for coverage for these services, at the time they were provided. The ministry also argued that their records indicate that the appellant's dentist informed her at the time the services were provided that she was only eligible for emergency dental services.

*The appellant's position*

The appellant's position is that when her file was reopened in December 2012, she was told that she was back on PPMB and had full medical and dental coverage and went ahead with her planned dental appointments on this basis. She further argued that some of the information in the ministry record was incorrect, stating that her dentist did not inform her at the time the services in question were provided that she was only eligible for emergency dental services and that because her dentist was one she chose from a list of dentists approved by the ministry, he should have been well aware of what dental coverage she had at the time she received treatment. It was not until January 30, 2013, that she was informed by the ministry that she was on Hardship Assistance and was only eligible for emergency dental services. For these reasons the appellant believes she has been treated in an unreasonable manner by the ministry and that they should be responsible for payment of her outstanding dental bill.

*The panel's analysis*

The panel finds that based on the evidence presented and the lack of documental evidence in support of the appellant's written and oral testimony at the hearing it is difficult to determine what information was provided by the ministry to the appellant regarding her Hardship Code C assistance status, when such information was provided to her, and to what extent she understood the impact that having Hardship Code C assistance status had on her eligibility for dental coverage. Other than the legislation noted above, there was no documental evidence presented by either party which simply and concisely outlined what services or supplements a recipient of Hardship Code C assistance was eligible to receive. As the appellant had previously received PPMB income assistance, and at that time was eligible to receive up to \$1000 per year for basic dental coverage, a document of this nature would have been helpful. On the evidence, it is also unclear who suggested the possibility of backdating the dental services, though it is clear from the appellant's written testimony that she hoped the services could be covered under her current \$1000 basic dental services allowance. However, regardless of the lack of clarity as to what the appellant was or was not told by the ministry or her dentist, the panel finds the ministry reasonably determined that the appellant was in receipt of Hardship Code C assistance during the month of January 2013.

Pursuant to s. 4 of the EAA, the minister may only provide a supplement for which a family unit is eligible. While s. 68 of the EAR allows for the provision of basic dental services, those services may only be provided to applicants who fall within the categories of persons set out therein, including persons referred to in s. 67(1)(a) – a person who has PPMB status and is in receipt of income assistance. As the appellant was not in receipt of income assistance at the time the dental services in question were provided, she was therefore eligible to receive emergency dental services only as set out in the EAR, subsection 70 (1)(b) which allows for the provision of emergency dental services set out in s. 6 of Schedule C to a recipient of hardship assistance. As defined in s. 1 of Schedule C, emergency dental services are those set out in the Schedule of Fee Allowances — Emergency Dental — Dentist.

The panel finds that the ministry reasonably determined that EAA section 4 only authorizes it to provide income assistance or a supplement to a family unit that is eligible for it and that as the appellant was in receipt of hardship assistance at the time the dental services in question were provided. Therefore, the panel finds that the ministry reasonably determined that it is not able to provide funding for Scaling Two Units (11112), Scaling ½ Unit (11117) Polishing (11107) and Root Canal-One Canal (33111) because these are not emergency dental services set out in the Schedule of Fee and Allowances -- Emergency Dental-Dentist.

*Conclusion*

The panel therefore finds that the ministry's decision to deny the appellant's request for \$333.62, representing



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fees for dental services for which she was not eligible at the time they were provided, was a reasonable application of the applicable legislation and confirms the ministry's decision.