

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the “Ministry”) June 7, 2013 reconsideration decision denying the Appellant coverage for partial dentures because the Ministry determined that her request did not meet the requirements in the Employment and Assistance Regulation as follows:

- The denture supplements eligible for coverage under section 69 and Schedule C section 5 do not include partial dentures;
- Partial dentures are not emergency dental services as provided for in section 70 and Schedule C section 6; and,
- The information provided does not demonstrate that the Appellant faces a direct and imminent life threatening need for the partial dentures in accordance with section 76.

The Ministry did determine that the Appellant is eligible for coverage for extractions for tooth numbers 11 and 12 as emergency dental services, at the rates in the Schedule of Fee Allowances – Dentist/Denturist.

## PART D – Relevant Legislation

Employment and Assistance Regulation (“EAR”) Sections 69, 70, 76, Schedule C Sections 1, 5 and 6, and Schedule of Fee Allowances – Dental/Denturist effective April 2013.

## PART E – Summary of Facts

For its reconsideration decision, the Ministry had the following evidence:

1. Information from its records that the Appellant receives income assistance.
2. Appellant's May 1, 2013 request for coverage for partial dentures consisting of:
  - Proposed Course of Treatment dated February 26, 2013 from a dental clinic with a quoted fee of \$1138.54 for cast partial upper dentures – fee code 53201. With her request for reconsideration submittal, the Appellant added comments to this document, described below.
  - Dental Claim form dated April 26, 2013 from a dentist for coverage for extractions of tooth numbers 11 and 12 – fee code 71201 and cast partial upper dentures – fee code 53201 for a fee of \$1080.29.
  - Medical Report Employability undated and completed by a doctor indicating that the Appellant's primary medical condition is teeth extraction and dentures. Her employability restrictions are missing/broken upper teeth, and in need of a partial denture to help with her self-esteem and make her more employable. The doctor wrote that she fully agrees that upper dentures are required.
  - Dental Claims History from the insurance carrier for January 1 to June 7, 2013, claim details for April 8, 2013, March 5, 2013 and May 1, 2013.
3. Appellant's reconsideration request in which she wrote that the total cost for dental work is \$1080.29 – corrected to read \$1070.29. The total amount covered is \$1036 and the difference is \$44.29. She stated that she spoke to the dentist's office since being denied and they can separate the bill so that she is billed for the difference. The Appellant wrote that she is tired of having ugly teeth. She wants to work and she wants to feel confident going out in public instead of hiding her life away at home. The Appellant stated that she wants to be involved more with her daughter's school events but classmates have made comments that she overheard and she doesn't want to be an embarrassment to her daughter. The Appellant wrote that she wants to be confident. In a job interview her teeth are very important. She cannot talk, laugh, yawn or smile without them showing. She wrote "please help me".

Also, for the reconsideration request, the Appellant wrote at the bottom of the Proposed Course of Treatment form that this is considered emergency treatment as she is in a lot of pain. She also needs 2 extractions. She wrote that they did not believe treatment would be covered; however, she found out that it may be covered. She has a new appointment on Friday April 26. They also have taken a photocopy of the Medical Report Employability form to keep on file and for the dentist to fill out. The Appellant wrote that she contacted the dental line for information to see about what her coverage would be and was told to bring in this form, but it does not include the extraction costs. So she intends to get the proper form filled out and a new proposed course of treatment.

At the hearing, the Appellant described how her front teeth deteriorated. She said that when she was a child she had veneers put on her front teeth and the enamel on her teeth had to be shaved for the veneers. Now the veneers have broken down so her teeth are exposed, are rotting and are falling out. The Appellant said that one tooth gives her a lot of pain and she is taking antibiotics. Also, she can't bite into things so she has to break food into pieces. The Appellant also described the same impacts on her life as she wrote about in her request for reconsideration, including that she wants to work and be part of the community, but with her teeth she cannot go out in public. The Appellant said she cannot afford the costs of dentures. In addition, she does not want to have all her teeth pulled for full dentures because she is concerned about her bones deteriorating and her jaw receding. Finally, the Appellant submitted that she does not understand the Ministry's policy about partial dentures.

Pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits the Appellant's oral testimony as providing further details about her dental condition and as being in support of the evidence that was before the Ministry at reconsideration.

The Ministry relied on and reaffirmed its reconsideration decision.

The Panel makes the following findings of fact.

1. The Appellant receives income assistance,
2. A dentist provided a proposed course of treatment for partial dentures, fee code 53201.
3. No dentist or doctor provided information that the Appellant needs the partial upper dentures for emergency health reasons or because of a direct and imminent life threatening health need.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant coverage for partial dentures because the Ministry determined that her request did not meet the requirements in the EAR as follows:

- The denture supplements eligible for coverage under section 69 and Schedule C section 5 do not include partial dentures;
- Partial dentures are not emergency dental services as provided for in section 70 and Schedule C section 6; and,
- The information provided does not demonstrate that the Appellant faces a direct and imminent life threatening need for the partial dentures in accordance with section 76.

The following sections of the EAR apply to this appeal:

### *Denture supplements*

69 The minister may provide any health supplement set out in section 5 [*denture supplements*] of Schedule C to or for a family unit if the health supplement is provided to

(a) a recipient of income assistance, or

(b) an adult dependant of a recipient of income assistance

who is not eligible for a supplement under section 68 [*dental supplements*] if the recipient or dependant has had tooth extractions performed in the last 6 months because of pain and those extractions resulted in the recipient or dependant requiring a full upper denture, a full lower denture or both.

### *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.

### *Health supplement for persons facing direct and imminent life threatening health need*

76 The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [*general health supplements*] and 3 [*medical equipment and devices*] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that

(a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,

(b) the health supplement is necessary to meet that need,

(c) the person's family unit is receiving premium assistance under the *Medicare Protection Act*, and

(d) the requirements specified in the following provisions of Schedule C, as applicable, are met:

(i) paragraph (a) or (f) of section (2) (1); (ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

### *Schedule C Health Supplements*

#### *Definitions*

1 In this Schedule

"denture services" means services and items that

(a) if provided by a dentist

(i) are set out under fee numbers 51101 to 51302 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

(ii) are provided at the rate set out for the service or item in that Schedule, and

(b) if provided by a denturist

(i) are set out under fee numbers 31310 to 31331 in the Schedule of Fee Allowances — Denturist that is

effective April 1, 2010 and is on file with the office of the deputy minister, and  
(ii) are provided at the rate set out for the service or item in that Schedule.

"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.

#### *Dental supplements*

5 The health supplements that may be provided under section 69 [*denture supplements*] of this regulation are denture services.

#### *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.

#### *Schedule of Fee Allowances – Dentist – Denturist*

##### *Complete Dentures*

51101 Complete Maxillary Denture – 757.50      51102 Complete Mandibular Denture – 780.75

##### *Immediate Complete Dentures*

51301 Immediate Complete Maxillary Denture – 789.75      51302 Immediate Mandibular Denture – 816.

##### *Partial Dentures, Acrylic*

52101 Maxillary – 306.

#### *The Parties' Positions*

The Ministry determined that based on its information regarding the Appellant's eligibility for income assistance, the Appellant is eligible to receive dentures under EAR section 69, emergency dental services under section 70 and Schedule C sections 5 and 6. The Ministry then considered whether the Appellant qualified for coverage under these sections of the EAR as discussed below.

The Appellant submitted that she disagrees with the Ministry's reconsideration decision because:

- 2 extractions and a partial denture are less expensive than 2 complete extractions and complete dentures;
- There is absolutely nothing wrong with her remaining teeth and full extraction would result in her bones deteriorating and her jaw receding;
- She needs the dentures because good front teeth would contribute to her quality of life, to being human, to being able to go out to work and to her daughter's activities, and to her self-esteem; and
- She cannot afford to pay for the partial dentures.

The Appellant made no submissions regarding the sections of the EAR considered by the Ministry in its reconsideration decision, except that she disagrees with Ministry policy.

#### *The Panel's Findings*

The Panel will consider whether the Ministry's decision was reasonable under each of the EAR

sections applicable to the Appellant's circumstances as follows.

*Eligibility for Partial Dentures as "Denture Services"*

The Ministry noted that the health supplements that may be provided under section 69 of the EAR are denture services which are defined in Schedule C section 1. That definition provides that denture services, if provided by a dentist are those services set out under fee numbers 51101 to 51302 in the Schedule of Fee Allowances – Dentist and at the rates set out in that schedule. The Ministry further noted that in that schedule, fee numbers 51101 to 51302 are for complete and immediate complete dentures whereas partial dentures are under fee code numbers 5201 to 52402. The Panel notes that in the Dental Claim Form, the dentist referred to fee code 53201 for the partial dentures. Therefore, based on these specific regulatory definitions, the fee codes and the dentist's request, the Panel finds that the Ministry reasonably determined that under section 69 of the EAR and section 1 of Schedule C, it is authorized to cover only complete dentures and not the partial dentures requested by the Appellant.

*Eligibility for Partial Dentures as "Emergency Dental Services"*

The Ministry also considered the application of the provisions for emergency dental services under section 70 and Schedule C section 6 of the EAR to the Appellant's circumstances. The Ministry noted that Schedule C section 1 defines "emergency dental service" as a dental service necessary for the immediate relief of pain that is provided by a dentist as set out in the fee allowance schedule for emergency dental services and at the rates set out there. The Appellant wrote that the proposed course of treatment is considered emergency treatment as she is in a lot of pain. However, the Panel finds that no information was provided by a doctor or dentist indicating that the partial dentures are needed for emergency reasons. Therefore, the Panel finds that the Ministry reasonably determined that it could not provide coverage for the partial dentures for the Appellant as emergency dental services.

*Eligibility for Coverage as a Life-Threatening Health Need*

The Ministry considered the application of section 76 of the EAR which states that the Ministry may provide any health supplement in Schedule C section 2(1) (a) [medical supplies], section 2(1)(f) [medical transportation] and section 3 [medical equipment and devices] if the requirements of section 76 are met. The Panel finds that the Appellant provided information about the painful effects of her bad teeth, as well as impacts on her employability, her self-esteem and her ability to participate in her daughter's activities. However, the Panel further finds that the Ministry reasonably determined that the information provided by the Appellant does not demonstrate that she faces a direct and imminent life threatening need for the partial dentures, in particular there is no confirmation from a dentist or doctor about such a threat. The Panel also finds that the Ministry reasonably determined that section 76 of the EAR applies only to medical supplies, medical transportation and medical equipment and devices, and not to dental and denture supplements.

Conclusion

The Panel finds that the Ministry's reconsideration decision was reasonably supported by the evidence and was a reasonable application of the applicable legislation. Therefore, the Panel confirms that decision.