

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (the "Ministry") April 3, 2013 reconsideration decision denying the Appellant, who has Persons with Disabilities designation, coverage for commercial laboratory fees of \$515 for dentures because such fees are not authorized by the Employment and Assistance for Persons with Disabilities Regulation Schedule C and not set out in that regulation's Schedule of Fee Allowances for Denturist.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation ("EAPWDR") Section 63, Schedule C Sections 1, 4 and 5, and Schedule of Fee Allowances - Denturist.

PART E – Summary of Facts

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

1. The Appellant receives Persons with Disabilities (“PWD”) assistance in the amount of \$531.42 as support allowance and \$375 as shelter allowance.
2. A Dental Treatment Plan proposal completed by a dentist on January 31, 2013 and submitted by the Appellant on February 18, 2013. The plan included dental services for several extractions and upper dentures.
3. That plan also included, under “Dentures”, a commercial laboratory fee of \$515 – fee code 99111.
4. The Appellant’s request for reconsideration in which he explained that after a serious work injury he was prescribed a pain medication and became addicted for 13 years. He went to treatment and during that time, his teeth became brittle and snapped off. His teeth caused him pain every day and he is reminded of the wreckage of his past every time he looks in a mirror. The Appellant wrote that all he wants is to be able to smile again and get his confidence back as he has become very self-conscious of his appearance. Then, he may be able to become a normal happy person. The Appellant stated that he wants to find a suitable career but who would hire someone who can’t even smile without feeling self-conscious. The Appellant wrote that he would even pay back the Ministry once he finds employment of some kind.

In his notice of appeal, the Appellant wrote that he has no way of paying the lab fee to get his upper dentures. Dentures cannot be made without a lab to make them. He wrote that he is in extreme pain and cannot proceed with the treatment plan. He asked that the fee be covered and he will repay the Ministry.

At the hearing, the Appellant said that because he receives disability assistance he does not have the money to pay for the lab fees. He asked the dentist and lab to accept a payment plan, but he was refused because of his credit rating. The Appellant provided the same information about his work injury, addiction to pain medication and the effect on his teeth as he put in his reconsideration request. He also said he is in pain and he just wants to get his life back, be able to look in the mirror, regain his self-confidence and be with people again. The Appellant said he has been a working man all his life and he is willing to pay the Ministry back in small payments. He submitted that the province should be helping people.

The Ministry reviewed and relied on its reconsideration decision. The Ministry also explained that it does not have any programs for lending money for dental work and it has to rely on the legislation.

Pursuant to section 22(4) of the Employment and Assistance Act, the Panel admits the Appellant’s testimony at the hearing and his statements in the notice of appeal as providing details about his financial situation and need for dental work, and as being in support of the evidence that was before the Ministry when it made its reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry reasonably denied the Appellant coverage for commercial laboratory fees of \$515 for dentures because such fees are not authorized by Schedule C of the EAPWDR and are not set out in that regulation's Schedule of Fee Allowances for Denturists.

The following sections of the EAPWDR apply to the Appellant's circumstances in this appeal:

Dental Supplement

63(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 eligible for health supplements.

Emergency dental and denture supplements

64(1) Subject to subsection (2), the minister may provide any health supplements set out in section 5 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 eligible for health supplements.

Schedule C Health Supplements

Definitions

1 In this Schedule:

"basic dental service" means a dental service that

(b) if provided by a dentist,

(i) is set out 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) is provided at the rate set out for the service in that Schedule.

"emergency dental service" means a dental service necessary for the immediate relief of pain that,

(b) if provided by a dentist,

(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

4 (5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under (a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or (b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under (a) fee numbers 51101 and 51102 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or (b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

Emergency dental supplements

5 The health supplements that may be paid for under section 64 [*emergency dental and denture*

supplements] of this regulation are emergency dental services.

Schedule of Fee Allowance – Denturist

The Parties' Positions

The Ministry's position is that, as a Person with Disabilities, the Appellant is eligible for dental supplements under the EAPWDR section 63 and 64, Schedule C and the Schedule of Fee Allowances - Dentist. The Ministry determined that the Appellant was eligible for extractions and upper dentures under these provisions of the EAPWDR. However, it also determined that it is not authorized to provide coverage for commercial laboratory fees for the Appellant's dentures because that service is not set out in the Schedule of Fee Allowances – Dentist.

The Appellant's position is that he has no way of paying the lab fee for his upper dentures. He is in extreme pain and cannot proceed with the dental treatment plan unless the lab fees are paid for. He is willing to repay the Ministry for the lab fees and the province should be helping people like him. The Appellant also submitted that until his teeth are fixed he is unable to work, to be with people and to move on with his life.

The Panel's Decision

The Panel finds that, under section 64 of the EAPWDR, with respect to the Appellant's circumstances, the Ministry is authorized to pay for only those basic dental services specifically listed in Schedule C section 4 and only for those emergency dental services specifically listed in Schedule C section 5, and for both types of services at the rates set out in the Schedule of Fee Allowances – Denturist. The Ministry did authorize a number of basic dental services and emergency services for the Appellant's dentures. However, the Panel finds that commercial laboratory fees are not one of the authorized services in either section 4 or 5 of Schedule C and are not one of the services listed in the Schedule of Fee Allowances – Denturist. Therefore, after reviewing the evidence and the applicable legislation, the Panel finds that the Ministry reasonably determined it did not have the authority to authorize payment for commercial laboratory fees. The Panel confirms the Ministry's reconsideration decision because it was reasonably supported by the evidence and was a reasonable application of the regulations.