

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision dated August 22, 2013 that denied the appellant's application for coverage of dental procedure fees in excess of the rates set out in the Schedule of Fee Allowances-Dentist and to deny the appellant coverage for a procedure that is not set out in the same schedule.

PART D – Relevant Legislation

Employment and Assistance For Persons With Disabilities Regulation (EAPWDR) section 63
Employment and Assistance Regulation (EAR), Schedule C, Section 4
Schedule of Fee Allowance-Dentist

PART E – Summary of Facts

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

- Ministry document Schedule of Fee- Dentist dated October 1, 2012.
- A page of patient notes from the dentist in the name of the appellant. The entry dated July 12, 2013 reads that the appellant “needs Rtc for 36 + 37.”
- A personal assessment letter written by the appellant addressed to the ministry dated July 25, 2013. The appellant writes that she is in pain because she needs dental work and that the pre-authorization form submitted by her dentist was rejected. She writes that the dentist requested coverage for two root canals and two fillings for a total of \$2671 and that she was approved for only \$342.32 leaving a balance of \$2328.68 to complete the work. The appellant writes that she has no means to pay this amount and that she is in the care of the ministry to help stop her chronic tooth pain.
- A Dental Pre-Authorization Statement dated June 6, 2013 in the name of the appellant authorizing her for \$342.32 in dental work. The statement shows that the appellant’s dentist requested a procedure number “33144” twice for two different teeth in the amount of \$1009 each.
- A Request for Reconsideration application completed by the appellant dated July 07, 2013. The appellant writes that she is unable to pay for the dental work that she needs. She adds that her need is an emergency, she is suffering from acute pain, and her tooth decay was caused by vomiting as a result of her Crohn’s disease. She writes that she has no funds to pay for the procedure.
- A Dental Claim History statement for Jan 1, to Aug 22, 2013 in the name of the appellant showing that \$153.55 has been paid out for the appellant’s dental work.
- A Dental Plan Eligibility statement for the period of Jan 1, 2013 to Dec 31, 2014 stating the appellant is eligible for \$1000 in coverage under her plan and she has used \$153.55 leaving her \$846.45 available.

At the hearing the appellant told the panel that she feels the ministry’s decision was unreasonable because she is in acute pain and the ministry is her sole source of support so they should provide the funds necessary to treat her condition. She continued that the pain makes it difficult for her to eat and that the dental work is necessary according to her dentist. She added that she has asked her dentist for a discount on the procedure so that it is within the allowable amounts of the ministry’s fee schedule but the dentist is not able to complete the work for that price. She told the panel that she has called the BC Dental Association and several other dental offices and no one has been able to direct her to a dentist that will work within the ministry’s allowable fee schedule. The appellant stated that she considers the ministry’s reconsideration decision a reasonable application of the legislation in her circumstance however she argues the legislated fee schedule is too low and out of date when compared with what dentists charge to perform the work. The ministry noted that there are some dental clinics in a city near the appellant’s home that can perform the needed dental work within the ministry’s fee schedule limits however the appellant said she was hesitant to travel to this nearby city since she may have difficulty getting home after the procedure.

At the hearing the ministry told the panel that the decision to deny the appellant’s application for the two root canals and two fillings was based on the fee schedule contained in the legislation. The ministry continued that there are dental clinics that the appellant can contact that work within the ministry’s allowable schedule of fees. The ministry added that the request for authorization submitted

by the dentist contained the incorrect fee codes for the root canal however even if the correct code was used, the cost of the procedure as presented by the dentist was above the amount in the ministry fee schedule. The ministry noted that there is provisions in the legislation to address life-threatening needs by recipients and situations when immediate pain relief is required however root canals are not approved procedures.

The panel finds that:

- The appellant's dentist submitted a pre-authorization request to perform two root canals and two restorations for a total cost of \$2671.
- The codes for the two root canals on the pre-authorization form submitted by the appellant's dentist were incorrect.
- The appellant's dentist will not perform the appellant's required dental procedures for the amounts detailed in the ministry's fee schedule.
- On June 6, 2013 the appellant was authorized for \$342.32 in dental work. This authorization did not include either of the root canal procedures because the code the dentist used to request the authorization was incorrect and is not in the ministry's Schedule of Fee Allowances- Dentist.
- The appellant is eligible for \$846.45 in dental work under allowable limit for the period of Jan 1, 2013 to Dec 31, 2014.
- The ministry's Schedule of Fee- Dentist allows \$330.93 for two root canals and \$174.08 for the one restoration and \$243.18 for the restoration of the other tooth. The total amount allowable under the ministry's Schedule of Fee Allowances- Dentist for the required work would be \$748.19.

PART F – Reasons for Panel Decision

The decision under appeal is the reasonableness of the ministry's decision to deny the appellant's application for coverage of dental procedure fees in excess of the rates set out in the Schedule of Fee Allowances-Dentist and to deny the appellant coverage for a procedure that is not set out in the same schedule.

The applicable legislation is the EAPWDR section 63, EAR Schedule C section 4, and the Schedule of Fee Allowances - Dentist which state:

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
- (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,
 - (c) section 62 (1) (b) (ii) or (d.2),
 - (c.1) section 62 (1) (c), or
 - (d) section 62 (1) (g).
- (2) A person eligible to receive a health supplement under section 62 (1) (b) (ii) or (d.2) 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.
- (3) A person eligible to receive a health supplement under section 62 (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.
- (4) A person who was eligible to receive a health supplement under subsection (1) (b) 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.

Schedule C

"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
 - (ii) is provided at the rate set out for the service in that Schedule,
- (b) if provided by a denturist,
 - (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, and
- (c) if provided by a dental hygienist,
 - (i) is set out in the Schedule of Fee Allowances — Dental Hygienist 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;

Dental supplements

4 (1) In this section, "period" means

(a) in respect of a dependent child or a child in a home of a relative, 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.

(1.1) The health supplements that may be paid under section 68 [dental supplements] of this regulation are basic dental services to a maximum of

(a) \$1400 each period, if provided to a dependent child, and

(b) \$1 000 each period, if provided to a person not referred to in paragraph (a).

The argument of the appellant is that she requires the dental work to relieve the pain she is in. The appellant maintains that she has no money available in her budget to pay any of the fees and since the ministry is her only source of support, she feels the ministry should pay the full amount of the dental procedures.

The argument of the ministry is that the amount requested by the appellant's dentist exceeded the limits as set out in the Schedule of Fee Allowance-Dentist. The ministry maintains that the limits on dental procedures are detailed in the applicable legislation and therefore the appellant and her dentist must be guided by and work within those limits. The ministry argues that the procedure code used by the appellant's dentist was incorrect.

The panel reviewed the legislation as well as the documents and testimony of the appellant. The panel considered the appellant's argument that the dental work is necessary to relieve her pain and that she has no other funds to cover the costs. The panel finds that pursuant to the section 1 of Schedule C definition of basic dental services, the Schedule of Fee Allowance-Dentist is the legislated guide that the ministry must follow when reviewing requests to cover dental procedures and that the ministry is bound by the limits in place. The panel acknowledges the appellant's personal financial situation and the difficulty she has contributing personal funds to the cost however the panel notes the ministry's testimony that there are low-income dental clinics that may be able to perform the dental procedures within, or close to, the ministry's allowable fees.

The panel considered the appellant's argument that the limits contained in the Schedule of Fee Allowance-Dentist are too low when compared with what dentists charge to perform the work. The panel finds that it is not within its jurisdiction to make a finding on the reasonableness of the legislation and therefore did not place any weight on this argument when coming to its decision.

The panel considered the ministry's argument that the fee code for a root canal used by the appellant's dentist was not set out in the schedule. The panel finds the codes used by the dentist do not appear in the schedule. In addition the panel notes that it was acknowledged by all parties that the appellant was applying to have two root canals done. The ministry's reconsideration decision lists the correct root canal code that should have been used by the dentist however the ministry denied the appellant's request and did not inquire with the dentist to clarify the request. The panel also notes that, as discussed at the hearing, even if the root canal codes suggested in the reconsideration decision had been used by the dentist, the fee amounts requested would be in excess of the amounts

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set out in the ministry schedule. The panel finds that the ministry's decision deny appellant's request for services not set out in the schedule was reasonable.

The panel finds that the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant and confirms the decision.