

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development (ministry) reconsideration decision of May 9th, 2013 wherein the ministry denied the appellant a crown for tooth number 47 as the ministry was not of the opinion that the appellant has a dental condition that could not be corrected through the provision of basic dental services as set out in Schedule C, section 4.1(2) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

Further, that on February 28th, 2011 the ministry denied the appellant's request for complete coverage of the dental services to be provided as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances-Dentist as stated in section 4.1(1)(b) EAPWDR.

PART D – Relevant Legislation

Employment and Assistance For Persons with Disabilities Regulation (EAPWDR), section 63, 63.1, Schedule C, sections 4, 4.1
Schedule of Fee Allowances-Dentist and Crown and Bridgework, effective April 1st, 2010

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration:

- Two page Dental Pre-Authorization Remittance Statement from Pacific Blue Cross (PBC) dated January 24th, 2013 to the appellant's dentist (MP) requesting further information on dental treatment;
- Letter from PBC dated March 11th, 2013 to MP;
- Letter from PBC dated April 12th, 2013 to appellant;
- Request for Reconsideration dated April 12th, 2013.
- Letter for Treatment Plan Proposal dated April 29th, 2013 from MP to appellant providing cost estimate for root canal(s) and cast metal crown on tooth #47;
- Letter from MP dated April 29th, 2013 providing an estimate on the appellant's current dental limit.
- Documents from PBC detailing the appellant's dental claim history since January 21st, 2013.

The appellant has a Persons with Disabilities designation (PWD) and may be provided with dental supplements and crown and bridgework supplement as outlined in the EAPWDR legislation. On February 28th, 2013 the appellant submitted a Dental Pre-Authorization Remittance Statement dated January 24th, 2013 to the ministry for a full crown, fee description number 27301, on tooth #47. The ministry determined the remittance statement was not a denial by PBC but a request for further information regarding the dental treatment. On March 11th, 2013 PBC wrote the MP for additional information which was submitted. The MP completed the PBC pre-printed form advising tooth #25 and #36 are missing; the appellant has no prosthesis'; and the appellant has several medical conditions including "fibromyalgia + very sensitive gingivitis – would not tolerate margins of SSC (stainless steel crown)". The MP did not comment on the area marked "explanation as to necessity for crown/bridge requests: Why treatment needs cannot be met through the basic dental treatment and relevant information regarding the client's medical condition(s) that would support the need for a crown or bridge".

Eligibility for Crown:

On April 12th, 2013 PBC denied the appellant's request for full metal crown on tooth #47 because the documentation provided by the MP did not satisfy the ministry that the appellant has a dental condition that cannot be corrected through the provision of basic dental services.

The PBC letter stated the appellant's request was denied because:

1. the documentation provided does not indicate that the dental condition precludes the provision of restorative services set out under the Restorative Service section of the Ministry of Housing and Social Development Schedule of Fee Allowances-Dentist;
2. the clinical explanation submitted does not confirm that the patient's (appellant's) needs cannot be met through the MSD Basic Dental Program;
3. the information provided does not confirm that one of the circumstances listed below (legislative criteria set out in Schedule C, section 4.1(2)(b) EAPWDR) exits;
 - the dental condition precludes the use of removable prosthetic;
 - the person has physical impairment that makes it impossible for him or her to place a removable prosthetic;
 - the person has an allergic reaction or other intolerance to the composition or materials used in the removable prosthetic;
 - the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.

The April 12th, 2013 letter from PBC informed the appellant what needed to be submitted in order to determine if the appellant's dental condition would meet the legislated criteria.

On April 29th, 2013 the appellant submitted additional information with her Request for Reconsideration. The appellant submitted that her request for the dental treatment is for an emergency supplement to cover the full

cost of a crown and root canal (if necessary); that initially her request was for a crown only and now she has been experiencing some pain and swelling around that tooth and she may require a root canal(s). The appellant stated that at present the x-rays do not show an abscess but the MP advised the abscess could be in the initial stages and if there is an abscess it would be known soon. The appellant submitted that on the Blue Cross application submitted on March 11th, 2013, the MP stated that the appellant has "fibromyalgia and very sensitive gingivitis - would not tolerate margins of stainless steel crown" and that is why a porcelain crown was requested.

Eligibility for Fees in Excess of Ministry rates for Crowns

The ministry determined the appellant is eligible to receive basic dental services to a maximum of \$1,000 each period, the current period being from January 2013 to December 2014. The appellant's claims history with PBC indicates that, as of the date of the Reconsideration decision (May 9th, 2013), the appellant has \$712.65 remaining of the \$1000 limit.

The ministry denied the appellant's request for full coverage of the crown and root canal work and advised the appellant that the ministry does not have the authority to provide fees for dental services in excess of the rates set out in the Schedule of Fee Allowances-Dentist to cover the difference between the dentist's fees and the fee set out in the Schedule Fee Allowance-Dentist.

The appellant's submission is that tooth #47 broke in January and it has been difficult to maintain a healthy diet. The appellant submits this tooth is very important as it is a chewing tooth and that there is still enough tooth left to be strengthened and re-enforced with filling and crown. The appellant submits that the other chewing tooth on the opposite side of her mouth is painful if this tooth is used consistently for 3 days or if it is used to chew hard foods. The appellant submits she has an inflammatory related disability and that she has very sensitive skin/gums and this condition should meet the requirement for a crown in the legislation. The appellant submits the cost of crown and root canal is \$1,933.00; that the crown is \$1,098.00 and is not covered and the cost of root canal(s) is \$835.00 and only \$521.77 is covered by BCP, leaving her to pay the balance. The appellant also submitted a letter from her family doctor dated June 14th, 2013 which states that the appellant would not be able to tolerate a removable prosthetic as she has very sensitive gums.

The panel finds the information above provided by the appellant does contain information relevant to the issue under appeal and that this information is in support of the information and record that was before the ministry at the time the reconsideration decision was made and therefore is admissible as evidence under section 22(4) Employment and Assistance Act (EAA).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration wherein the ministry denied the appellant a crown for tooth number 47 as the ministry was not of the opinion that the appellant has a dental condition that could not be corrected through the provision of basic dental services as set out in Schedule C, section 4.1(2) of the EAPWDR.

Further, that on February 28th, 2011 the ministry denied the appellant's request for complete coverage of the dental services to be provided as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances-Dentist as stated in section 4.1(1)(b) EAPWDR.

Legislation considered: EAPWDR

Dental supplement

Section 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*],

Crown and bridgework supplement

Section 63.1

(1) 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;

Schedule C Health Supplements

Definitions

Section 1 In this Schedule:

"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 (B.C. Reg. 65/2010)

(ii) is provided at the rate set out for the service in that Schedule,

Crown and bridgework supplement

Section 4.1

(1) In this section, "crown and bridgework" means a dental service

(a) that is provided by a dentist, (B.C. Reg. 94/2005)

(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 deputy minister, (B.C. Reg. 315/2006) (B.C. Reg. 65/2010)

(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.

Eligibility for Crown:

In the written submission the ministry relied on the criteria set out in Schedule C, section 4.1(2) EAPWDR and argued that the appellant is only eligible for crown and bridgework if the ministry is of the opinion that the appellant has a dental condition that cannot be corrected through the provision of basic dental services. The ministry argued that PBC wrote to the MP requesting further information to determine the condition of tooth #47 that would require a crown on this tooth and provide information that would establish that the dental condition of tooth #47 precludes the provision of other restorative services (i.e. amalgam fillings). The ministry argued this information was not provided.

In this appeal the appellant argues that the tooth had been previously filled (2011) and that part of the tooth and the filling had broken off in January (2013) and the MP recommended a crown under fee code 27301. The appellant argues that due to her fibromyalgia and very sensitive gingivitis she does meet the legislative requirements. The appellant submits that both her MP and her family doctor support her argument that she does meet the legislative requirements; that she has very sensitive gingivitis and would not tolerate margins of a stainless steel crown and her family doctor says she that her sensitive gums would not be able to tolerate a removable prosthetic.

The evidence is that the MP's Treatment Plan Proposal dated April 25th, 2013 for tooth #47 recommends a crown, under procedure 27301, and possible root canal (4 and up) procedure 33141. The Schedule of Fee Allowances-Dentist describes fee code 27301 as Crown, Full Cast Metal. When the MP responded to PBC on March 11th supporting the appellant's dental need for a crown on tooth #47 he stated that the appellant has fibromyalgia and very sensitive gingivitis and would not tolerate margins of stainless steel crown. The MP did not provide any further documentation on the condition of tooth #47.

The panel finds there is conflicting information from the MP on what type of crown procedure is needed for the appellant. The fee code recommended is for stainless steel crown but in the MP report to PBC he stated that the appellant's gums will not tolerate stainless steel crown. The appellant submits her request was for a porcelain crown which may be described under fee code 27213.

The panel finds the evidence supports the ministry's position that the information provided by the MP does not establish that the dental condition of tooth #47 precludes the provision of other restorative services and the ministry's decision to determine that the appellant's request for a crown does not meet all the criteria set out in section 4.1(2) EAPWDR was reasonable.

Eligibility for Fees in Excess of Ministry rates for Crowns

The ministry determined the appellant is eligible to receive basic dental services to a maximum of \$1,000 each period, the current period being from January 2013 to December 2014. The appellant's claims history with PBC indicates that, as of the date of the Reconsideration decision (May 9th, 2013), the appellant has \$712.65 remaining of the \$1000 limit for eligible dental expenses. The ministry argued the appellant is eligible for basic dental services and that she has \$712.65 remaining in eligible dental expenses for this period.

The ministry argued there is no authority to provide coverage for dental service fees in excess of those set out in the schedule. The ministry argued section 63 EAPWDR states the ministry may provide health supplements set out in Schedule C, section 4.1 EAPWDR and that the dental service provided by a dentist must be set out in the Schedule of Fee Allowance-Dentist and that the service is provided at the rate set out in the Schedule of Fee Allowances.

The ministry determined that under section 4.1(1) EAPWDR the appellant is eligible to receive Crown and Bridgework provided the dental service is provided by a dentist and the fee(s) for such service is provided at the rate set out in the Schedule of Fee-Allowances-Crown and Bridgework.

The ministry denied the appellant's request for full coverage of the crown and root canal work and advised the appellant that the ministry does not have the authority to provide fees for dental services in excess of the rates set out in the Schedule of Fee Allowances-Dentist. The fee set out in Schedule of Fee Allowances for a Cast Metal Crown, procedure 27301, is \$539.90. The MP's fee is \$1,080.00. The appellant would be responsible for the difference.

The appellant submits the cost of crown and root canal is \$1,933.00; that the crown is \$1,098.00 and is not covered and the cost of root canal(s), if necessary, would be \$835.00 and only \$521.77 is covered by BCP, leaving her to pay the balance. The appellant submitted a letter from her family doctor dated June 14th, 2013 which states that the appellant would not be able to tolerate a removable prosthetic as she has very sensitive gums. The appellant argued that she has no funds to cover the additional fees and seeks assistance.

The panel finds Schedule C, section 4(1) EAPWDR states the ministry can provide a maximum of \$1000 for basic dental services/crown and bridgework at the rate set out in the Schedule of Fee Allowance-Dentist in a given period. The panel finds that if the appellant satisfied the ministry that a crown was necessary for tooth #47 a crown would be provided at the rate set out in the Schedule of Fee Allowances-Dentist and the cost of the crown would be deducted from her \$1,000.00 dental service limit. The panel finds the ministry has no discretion in providing additional funding from the amount set out in the EAPWD regulation.

The panel finds the ministry's decision not to cover the difference between the dentist's fees and the fee set out in the Schedule of Fee Allowances was reasonable.

The panel finds that the ministry's reconsideration decision is a reasonable interpretation of the legislation and is supported by the evidence and confirms the decision pursuant to section 24(1)(b) and 24(1)(a) of the Employment and Assistance Act.