

PART C – Decision under Appeal

The decision under appeal is the Ministry's Reconsideration Decision, dated Sept. 12 2013, which held that the Appellant was not eligible for a portion of requested dental work. The decision found the dentist had requested coverage for procedures not authorized in the Crown and Bridgework Schedule of Fee Allowances, ("the Fee Schedule"), as provided in section 4.1 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

PART D – Relevant Legislation

EAPWDR Employment and Assistance for Persons with Disabilities Regulation,
Sec. 63.1 and Sec. 4.1 of Schedule C

PART E – Summary of Facts

Evidence Before the Ministry at Reconsideration

The Appellant is a young man who lives in a residential home that provides 24 hour care due to his disabilities. He fell out of bed and knocked his front teeth out. As per ministry requirements, he applied for coverage to have dental work done to repair the damage to his teeth. His dentist requested pre-approval for work to four teeth. This request was initially denied by Pacific Blue Cross on behalf of the ministry. The Appellant asked for reconsideration. It was pointed out that the appellant was having difficulty eating due to the missing teeth and that he had enough challenges in life without this issue.

At reconsideration the ministry found the appellant was eligible for dental work as he was the recipient of disability assistance under sec. 63.1. Further, he met the requirements for bridgework under sec. 4.1 of Schedule C of the EAPWDR. The decision noted that the normal procedure for the provision of bridgework was not followed and that the reasons for the initial denial were not immediately clear. The decision set out that normally the dentist would have been advised by Pacific Blue Cross that some of the fee codes used by the dentist, 67201- retainer and 99111- laboratory fees, were not in the Schedule. The ministry found the Appellant was eligible for bridgework, at the rates set out in the Fee Schedule, but could not authorize coverage for those services not provided for in the Fee Schedule; fee codes 67201 and 99111. The decision noted, for information purposes only, that the dentist could apply for retainers under fee code 67211. The decision did find that the Appellant was eligible for work on two teeth, under fee code 62501, and pointed out that the ministry rate was higher by approximately \$70.00 per tooth.

The Appellant appealed this decision. There are two Notices of Appeal. One signed by the Appellant dated September 18, 2013 sets out that the paperwork the dentist initially sent out incorrectly used the wrong codes. This is now corrected by the dentist and should be reconsidered by the Tribunal. The second Notice, dated September 16, 2013, stamped by the dentist, asks for reconsideration stating that the request was denied due to incorrect fee codes and includes an updated Pre-Authorization Request. The request includes work for the same four teeth under the codes 67211, as opposed to 67201, and 62501, and excludes the request for laboratory fees. It also includes in handwriting, under the revised fee codes, the words, "As per your letter we have adjusted the codes pls. re-consider."

Evidence Before the Tribunal

The Notice of Appeal provided new evidence from the dentist that was not before the reconsideration officer, being the revised Pre-Authorization Request. Section 22(4)(b) of the *Employment and Assistance Act* states that a panel may admit as evidence only the information and records that were before the minister when the decision being appealed was made, and, oral or written testimony in support of the information and records that were before the minister when the decision being appealed was made.

The ministry acknowledged that the updated Pre-Authorization Request is related to the issues at reconsideration but objected to its admissibility on the basis that it is a new request with proper fee

codes. The initial code fees requested were 67201 for teeth #22 and #12. The new material describes the code as 67211 for the same teeth. The reconsideration decision noted that the dentist may want to reapply with the correct codes. This material appears on the face of it to be in support of the information and records that were before the minister when the decision being appealed was made, as required in order to be admitted pursuant to S22(4) Employment and Assistance Act. However, it is a request for work done to two teeth using new fee codes, 67211. There is no evidence before the panel that this was simply a typographical error by the dentist. There is no evidence before the tribunal that there is no fee code 67201 used by dentists. The request is for work under new fee codes which have never been before the ministry previously. The panel finds that the material is not admissible in this proceeding as it is new request. The panel does not have jurisdiction to allow a new request at the appeal level.

At the hearing the appellant's representative provided evidence explaining how the appellant came to injure his mouth and that they had been trying for months to get this dental problem sorted out. It had been a very frustrating process but they believed they now had the proper codes and the appellant should be covered for the procedures. It was explained that initially they were not told by Blue Cross why he was denied and so they asked for reconsideration. Then they found out there were issues with the fee codes and lab fees but this was revised by the dentist as set out in the last Pre-Authorization Request. Some of the problems may have arisen as the dentist seemed reluctant to deal with the ministry for payment. The dentist is expecting to be paid for anything above that not covered by the ministry.

The ministry stated that although this matter could seem complicated it was also straight forward. The ministry could only authorize those procedures that are set out in the Fee Schedule. If fees were claimed for items not in the Fee Schedule, i.e. lab fees, they could not be authorized. Further, the ministry could only authorize those rates as set out in the Fee Schedule and could not pay more than that set out by the legislation. The ministry acknowledged that many dentists are hesitant to work with ministry clients under the Fee Schedule. The ministry stated that the new Pre-Authorization Request should not be taken into account on this matter but should be considered a new request and the process restarted. The ministry acknowledged the appellant was covered for those services as set out in the Fee Schedule. The ministry also pointed out that the dentist should set out in the request all the charges that would be forthcoming for the procedures whether the ministry would cover them or not. When asked the ministry agreed that a new quote from the dentist should include at a minimum the proper codes with the proper fees.

PART F – Reasons for Panel Decision

The issue to be decided is whether the ministry reasonably concluded that the Appellant was not eligible for the dental work requested.

The legislation provides as follows;

Employment and Assistance for Persons with Disabilities Regulation

Crown and bridgework supplement

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

Crown and bridgework supplement

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

(a) that is provided by a dentist,

(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 office of the deputy minister,

(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.

...

MINISTRY OF HOUSING AND SOCIAL DEVELOPMENT
Schedule of Fee Allowances - Crown and Bridgework
Effective April 1, 2010

FEE NO.	FEE DESCRIPTION	FEE AMOUNT (\$)
---------	-----------------	-----------------

...

BRIDGES

Note: Limited to one per tooth in a five-year period. Only full cast metal retainers and pontics will be considered on tooth numbers 6, 7 and 8.

Retainers:

67211	Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	*623.30
67301	Full, Metal Cast	*562.81

Pontics:

62101	Cast Metal	*313.75
62501	Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	*372.75

*denotes lab fee(s) included

Under the legislation, an eligible recipient of disability assistance is entitled to Crown and Bridgework as set out in the Fee Schedule. The ministry in its reconsideration decision determined that the appellant is eligible for this type of work under Section 4.1 of Schedule C, but the ministry can only authorize those services set out in the Fee Schedule.

It appears from the beginning of this file that both parties were unclear as to what had happened with Pacific Blue Cross and why the initial claim was denied. It is possible that the dentist may have simply typed in the wrong code and requested fees for retainers under code 67201 rather than 67211; although there is no evidence from the dentist on this issue. When the reconsideration decision made it clear to both parties that 67201 was not a fee code authorized by the ministry, the dentist provided a new request with codes allowed by the ministry. However, the panel has found that that information is not admissible in these proceedings. The request for work to two teeth under fee code 62501 was allowed in the reconsideration decision. The request for work under 67201 was for work not authorized under Fee Schedule and the ministry had no jurisdiction to allow such work. These are reasonable findings.

The appellant argues that the initial request from the Dentist used the wrong fee code. This has now been amended and the appellant should be authorized to obtain those services as set out in the revised Pre-Authorization Request. The ministry argues that the fee codes have been adjusted by the dentist, but that this should be considered a new request and be resent to Blue Cross and the process started again.

The panel has jurisdiction in this matter to review those matters that were before the reconsideration officer. The reconsideration officer did not have an application for services under fee codes 67211. The new codes may mean that different services will be provided by the dentist from those originally requested, particularly since there is no detailed description provided in the Requests with respect to each tooth.

The panel finds that the appellant is entitled to those services as set out in the legislation, but the request for services under different fee codes was not before the reconsideration officer. As the ministry points out, it is a new request. This is a request that was not before the reconsideration officer and the panel does not have jurisdiction to look at this new request. A new request should be considered anew. As such, the panel finds, based on all the evidence before it, that the reconsideration decision is a reasonable application of the legislation. The Reconsideration Decision is confirmed. The Appellant is not successful in his appeal.