

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated April 1, 2014 which denied the appellant's request for a dental supplement for a crown for tooth number 25 because:

- the appellant did not receive the ministry's pre-authorization for the dental service, as required by Section 4.1(1)(d) of Schedule C of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR), and the dental service was not provided at the rate set out in the Schedule of Fee Allowances- Crown and Bridgework pursuant to Section 4.1(1)(b);
- the ministry was not satisfied that the appellant has a dental condition that cannot be corrected through the provision of basic dental services, as set out in Section 4.1(2) of Schedule C of the EAPWDR;
- the dental service for a crown is not set out in the Schedule of Fee Allowances-Emergency Dental- Dentist; and,
- the eligibility criteria for a life threatening health need were not met, as required by Section 69 of the EAPWDR.

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 63.1, 64, and 69, and Schedule C, Section 4.1 and 5

Schedule of Fee Allowances- Crown and Bridgework

Schedule of Fee Allowances- Emergency Dental- Dentist

PART E – Summary of Facts

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Patient Receipt dated September 13, 2013 from a dental office which set out services provided on August 22, 2013 and September 5, 2013 for a crown at a total cost of \$1,052.96 and was paid in full on September 5, 2013. Additional handwritten notes state in part that the appellant spoke to “the lady at your dental information line” and she said to submit this receipt to the ministry for a reimbursement cheque for the total of \$1,052.96 as the appellant had to borrow funds to pay for it. She said it was available through a medical/dental request form, but since she already paid for it with borrowed funds, to submit the bill to the ministry;
- 2) Letter dated September 25, 2013 from the ministry to the appellant denying her request for dental services;
- 3) Dental Claims History for January 1, 2013 through March 28, 2014 and Dental Benefit Eligibility from Pacific Blue Cross indicating in part that for major restorative services, including crowns, approval is required before proceeding with treatment and to “please ensure the dental office submits a request for pre-authorization”;
- 4) Email dated March 31, 2014 from Pacific Blue Cross to the reconsideration officer indicating in part that nothing was claimed by the dentist in September 2013 and there is no request for “pre-d” to do a crown on the system either;
- 5) Clarification Log dated April 1, 2014 noting communication between the reconsideration officer and the office assistant for the dentist indicating in part that the dentist did not apply to Pacific Blue Cross for pre-authorization for the services provided to the appellant on August 22 and September 5, 2013 as “she had to have the crown done or lose the tooth.”; and,
- 6) Request for Reconsideration- Reasons dated March 20, 2014.

In her Request for Reconsideration, the appellant wrote that she had to have an emergency crown. She is a recipient of disability assistance and she has attached a handwritten sheet indicating what the ministry told her in regards to being reimbursed. It is her understanding that the ministry does issue funds for crowns. She is in dire need of funds.

In her Notice of Appeal, the appellant wrote that she asked the receptionist to get pre-authorization but she refused and said crowns are not okayed. She was in a lot of pain and needed emergency services.

At the hearing, the appellant stated that:

- She was in a lot of pain at the time and cannot remember all the details but she asked the receptionist at her dentist's office to request a pre-authorization to have the work done on her tooth. The receptionist refused to make the request because she said it is so much paperwork and the ministry hardly ever pays for crowns since they would rather the person lose the tooth and get dentures.
- The appellant paid for the work and then called the number for information and was told that, in her circumstances, she should submit the bill to the ministry. The ministry denied her request and the reconsideration process began. She feels it is unfair that she will not be reimbursed when it was the dentist's office that refused to request the pre-authorization.
- The appellant agreed that she knew that a pre-authorization was required for this work. In terms of the next step to take, she was in a lot of pain and did not think things through at the time.

- She is allergic to nickel and if any of the materials for the removable prosthetic include nickel, would not be able to use it. The dentist said that gold is the material used in the crown because it will last but it also makes it expensive.
- When she got the crown, it did relieve the pain she had been experiencing.

The ministry relied on the facts as set out in the reconsideration decision that:

- The appellant is a Person With Disabilities (PWD) and is eligible for dental supplements.
- On September 18, 2013 the ministry received a receipt from a dental office which showed that the sum of \$1,052.96 had been received for dental services performed on August 22 (bonded composite core in conjunction with a crown) and September 5, 2013 (crown-porcelain/ceramic/polymer glass, fused to metal base).
- Pre-authorization was not provided for the appellant's crown work.

At the hearing, the ministry clarified that:

- The ministry will only pay up to the maximum of the amount detailed in the Schedule of Fee Allowances for a particular service. The appellant then has the option of paying any additional amount that the dentist requires for the service on her own, or finding another dentist who only charges the amount set out in the Schedule.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision, which denied the appellant's request for coverage for dental services for a crown as pre-authorization was not received, the services were not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist, included an amount in excess of the fee schedule rates for Crown and Bridgework and did not show a dental condition that cannot be corrected through basic dental services, and did not meet the eligibility criteria for a life threatening health need, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Section 63.1 of the *Employment and Assistance for Persons With Disabilities Regulation* (EAPWDR) stipulates the eligibility requirements for a crown and bridgework supplement as set out in Schedule C, Section 4.1

Section 4.1 of Schedule C of the EAPWDR provides:

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.

Section 64 of the EAPWDR stipulates the eligibility requirements for emergency dental supplements as set out in Schedule C, Section 5. If those requirements are met, Section 5 of Schedule C of the EAPWDR specifies that the health supplements to be paid for under Section 64 are "emergency dental services."

Section 1 of Schedule C further defines "emergency dental service" as follows:

"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 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;

Section 69 of the EAPWDR provides as follows:

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

69 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).

Crown and bridgework supplement

Ministry's position

The ministry has determined that the appellant, as a PWD, is eligible for a crown and bridgework supplement under Section 63.1 and Schedule C, Section 4.1 of the EAPWDR. The ministry's position is that the dental office did not apply for a crown and request a pre-authorization, as required by Section 4.1(1)(d) of Schedule C of the EAPWDR and as set out in the preamble to the Schedule of Fee Allowances- Crown and Bridgework. The ministry also argued that the services were not provided at the rate set out in the Schedule for a crown (fee code 27211- crown, porcelain/ ceramic/ polymer glass, fused to metal base) as the dentist charged \$962.40 and the fee is \$624.20 and the ministry is not authorized to provide coverage for fees in excess of the rates set out. The ministry argued further that information was not provided to confirm that the appellant's dental condition precluded the provision of restorative services and one of the situations existed, as described in Section 4.1(2)(b) of Schedule C.

Appellant's position

The appellant's position is that she asked the receptionist to get pre-authorization but she refused and said that it involves a lot of paperwork and the ministry hardly ever approves crowns. The appellant argued that she was in a lot of pain and does not remember all the details, but it was not her fault that the pre-authorization was not obtained. The appellant pointed out at the hearing that she is allergic to nickel and if that substance is used in a removable prosthetic, this would not be an option available to her.

Panel's decision

The ministry has determined that the appellant is eligible for dental supplements under Section 63.1 of the EAPWDR which is defined, in Section 4.1 of Schedule C. The appellant acknowledges that she was aware that pre-authorization was required for the crown work but argues that the dental office refused to request the pre-authorization so it is not her fault that the pre-authorization was not received. Although the appellant stated that she was in a lot of pain, she proceeded to have this dentist perform the work despite their refusal to do as she asked and request the pre-authorization, and the appellant thereby assumed the risk of financial responsibility for the services provided. The

panel finds that the ministry reasonably determined that the requirement set out in Section 4.1(d) of Schedule C of the EAPWDR was not met since the appellant had not received the ministry's pre-authorization for the crown work as detailed in the receipt dated September 13, 2013. Upon review of the Schedule of Fee Allowances- Crown and Bridgework, the panel finds that the ministry also reasonably determined that the maximum amount allocated for the service of Crown, Porcelain/ Ceramic/ Polymer Glass, Fused to Metal Base, which has code #27211, is \$624.20 with lab fees included, while the appellant's dentist charged \$962.40 for this service. While the appellant pointed out her allergy to nickel as potentially having an impact on her use of a removable prosthetic, the panel finds that the dentist has not confirmed the circumstances in Section 4.1(2)(b)(iii), i.e. that the appellant has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic, and also that the appellant's dental condition precludes the provision of restorative services section of the Schedule of Fee Allowances-Dentist, as set out in Section 4.1(2)(a) of Schedule C. Therefore, the panel finds that the ministry reasonably concluded that there is insufficient information provided to establish that the appellant has a dental condition that cannot be corrected through the provision of basic dental services under Section 4.1(2) of Schedule C.

Emergency Dental Services

Ministry's position

The ministry's position is that the health supplements that may be paid under Section 64 of the EAPWDR are those set out in Schedule C, Section 5, namely "emergency dental service" which are defined in Section 1 of Schedule C to mean a dental service that is necessary for the immediate relief of pain that (a) if provided by a dentist, 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 is provided at the rate set out for the service in that Schedule. The ministry points out that the Schedule of Fee Allowances-Emergency Dental-Dentist does not include the service requested for a crown.

Appellant's position

The appellant's position is that she was in a lot of pain because of problems with the tooth and needed emergency services, and that the crown relieved that pain.

Panel's decision

Section 1 of Schedule C defines "emergency dental service" to mean a dental service that is necessary for the immediate relief of pain that (a) if provided by a dentist, 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 is provided at the rate set out for the service in that Schedule. The appellant stated that the dental service provided to her, namely the crown work, provided relief from the pain that she was experiencing from the tooth; however, the other part of the definition in Section 1 is that the emergency dental service must be set out in the Schedule of Fee Allowances-Emergency Dental-Dentist and paid at the rate set out in that Schedule. Upon review of the Schedule of Fee Allowances-Emergency Dental-Dentist, the panel finds that the ministry reasonably concluded that the services provided to the appellant, being a crown, porcelain/ ceramic/ polymer glass, fused to metal base, with a code of #27211, is not listed in the Schedule and the ministry does not have the discretion to pay fees for items not included in the Schedule.

Life-threatening health need

Ministry's position

The ministry's position is that information provided does not demonstrate that the appellant faced a direct and imminent life-threatening need for the services provided. The ministry also argued that

Section 69 of the EAPWDR stipulates that the remedy for a life threatening health need only applies to medical supplies, medical transportation and medical equipment and that dental and denture supplements are not set out in the section and, therefore, are not eligible items.

Appellant's position

The appellant did not directly advance a position that she faced a direct and imminent life threatening need for the dental service but stated that she was in a lot of pain because of problems with the tooth and needed emergency services, and that the crown relieved that pain.

Panel's decision

The panel acknowledges that the appellant stated she was in considerable pain because of problems that had developed with her tooth; however, there was no information provided that the condition of the tooth posed a life-threatening condition that necessitated the crown work, and the panel finds that the ministry reasonably concluded that there was insufficient information to demonstrate a direct and imminent life-threatening need for the services requested. The panel finds that the ministry also reasonably concluded that the remedy set out in Section 69 of the EAPWDR for a life threatening health need only applies to medical supplies, medical transportation and medical equipment, as set out in Sections 2 and 3 of Schedule C, and dental supplements are not set out in the section and are, therefore, not eligible items. The panel finds that the ministry's conclusion that the request for coverage of dental services for crown work does not meet the eligibility criteria for a life threatening health need under Section 69 of the EAPWDR was reasonable.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for coverage for dental services for a crown as pre-authorization was not received, the services were not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist, included an amount in excess of the fee schedule rates for Crown and Bridgework and did not show a dental condition that cannot be corrected through basic dental services, and also did not meet the eligibility criteria for a life threatening health need, was a reasonable application of the applicable enactment in the circumstance of the appellant and, therefore, the panel confirms the decision.