

PART C – Decision under Appeal

Under appeal is the March 24, 2014 Ministry of Social Development and Social Innovation Reconsideration Decision denying coverage for a root canal and a non-bonded composite core, under sections 63, 64, 69, and schedule C of the Employment and Assistance for Persons with Disabilities Regulation. A request for reconsideration with respect to a crown was not granted on the basis no ministry decision had taken place about the appellant's eligibility for this dental supplement, because a request for a crown had not been submitted to Pacific Blue Cross.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) section 63, 64, 69 and schedule C, and Schedule of Fee Allowances - Emergency Dental-Dentist

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- As a Person with Disabilities, the appellant is eligible for dental supplements under sections 63 and 64 and Schedule C, sections 4 and 5 of the EAPWD.
- February 12, 2014 letter from the appellant, attaching a February 6, 2014 dental pre-determination form with the cost of a root canal and crown fitting, stating the procedures are necessary to alleviate infection and prevent worsening, and requesting \$858 extra coverage because her dental coverage would not cover the cost.
- February 27, 2014 letter from the appellant's dentist, saying because of deep decay, root canal therapy was needed, and the tooth was cold sensitive and extremely painful to percussion.
- March 7, 2014 request for reconsideration, in which the appellant said without the root canal and crown she would experience more damage to her teeth and gums, leading to infection that threatens her health. She said she suffered a heart attack in 2004 and almost died from diverticulitis in 2005, and wants to maintain her dental health so her general health does not deteriorate.
- Ministry's schedule of fee allowances for crown and bridgework, effective April 1, 2010.
- 20 page Ministry of Social Development "Dental Supplement Dentist" document including a list of services and fee amounts under the heading Schedule of Fee Allowances – Emergency Dental-Dentist Effective April 1, 2010. Within Part C-Preamble it is stated "*Services outside this schedule (i.e., dentures, root canal treatment, restorations in excess of the 2 year maximum) will not be covered and any work beyond the immediate relief of pain will not be considered.*"
- Appellant's dental claims history, indicating filling and pulp capping in April 2013, root canal therapy and pre-fabricated post inserted February 19, 2014.
- The ministry paid \$989.96 for basic dental services for the appellant's dental claims received from April 9, 2013 to February 6, 2014.

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's decision to deny payment for a root canal and a non-bonded composite core because the limit for basic dental services for the period had been reached, and the procedures are not listed in the schedule for emergency dental services.

Relevant Legislation**Employment and Assistance for Persons with Disabilities Regulation (excerpts)****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) or (iv), (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.

Emergency dental and denture supplement

64 (1) Subject to subsections (2) and (3), 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 under

(a) section 62 (1) (a), (b) (iii), (d) or (e) [*general health supplements*],

(b) section 62 (1) (b) (i) or (iv), (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).

Schedule C – Health Supplements

"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,

Dental supplements

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

(a) in respect of a dependent child, 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 63 [*dental supplements*] of this regulation are basic dental services to a maximum of

(a) \$1 400 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).

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.

Appellant's Position

The appellant argues the treatment for which she requests coverage is necessary to alleviate infection that would get worse without treatment, and that with her history of a heart attack and diverticulitis, she wants to maintain her dental health so her general health does not deteriorate. She says she cannot afford the cost, and that the treatment should be assessed as a situation that qualifies for additional coverage when the basic coverage has been exhausted.

Ministry's Position

The ministry argues section 63 of the EAPWD provides a maximum of \$1000 for basic dental services over the two year period ending December 31, 2014, during which \$989.96 has been paid, leaving only \$10.04.

Under section 64 the ministry may provide health supplements set out in section 5 of Schedule C. The health supplements that may be provided for "emergency dental service", defined as a dental service for the immediate relief of pain, are specified in the Schedule of Fee Allowances-Emergency Dental-Dentist. Root canal therapy and a non-bonded composite core in conjunction with crown are not included, and therefore the ministry is not authorized to provide coverage for the root canal and non-bonded composite core. The ministry says it does not have any discretion in this matter.

Panel's Decision

It is undisputed that \$989.96 was paid for the appellant's basic dental services during the two year period which will end December 31, 2014.

While the appellant's dentist recommended root canal therapy, EAPWD section 63 and Schedule C limit the amount payable for basic dental services to \$1000 in each two year period. Under EAPWD section 64, emergency dental service health supplements may be provided. However, in Schedule C the "emergency dental service" definition limits such services to those listed in the Schedule of Fee Allowances - Emergency Dental-Dentist. Root canals and non-bonded composite cores are not listed, and the document specifically states root canals are not covered. In applying the legislation the ministry does not have discretion, and the panel therefore finds the ministry's decision was a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.

As the request for a crown was not submitted to Pacific Blue Cross (confirmed by the dental office), and consequently there was no ministry decision to be reconsidered, in accordance with section 16 of the EAPWDA there is no reconsideration decision subject to appeal. Therefore, the panel did not address that issue.