

## PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation's ("the Ministry") reconsideration decision dated March 31, 2015 which denied the appellant's request for coverage of dentist's fees in excess of the Ministry fee rates and the maximum limit of \$1000.00 for the period ending December 31, 2014 pursuant to Section 4 of Schedule C of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR).

The Ministry also found that although the Appellant was eligible for dentures as a basic dental service under section 4(2) of Schedule C, she did not meet any of the exemptions in section 4(3) of the Schedule to exceed the limit of \$1,000 for basic dental services over a two-year period ending December 31, 2014. In addition, the Ministry found that there was no exception in policy to cover fees in excess of the rates set out in the Schedule of Fee Allowances - Denturist.

## PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation – EAPWDR - section 63 and Schedule C sections 1 and 4  
Schedule of Fee Allowances - Dentist  
Schedule of Fee Allowances - Denturist

## PART E – Summary of Facts

The evidence before the Ministry at the time of reconsideration consisted of:

1) A Request for Reconsideration signed by the Appellant on February 7, 2015 in which the Appellant stated that she made many phone calls to the “dentist department” and they told her they could pay for her dentures. Her dentist charged \$1,101 and confirmed that the Ministry would cover \$1,000 and she could pay the difference of \$101 in installments. However, the Ministry’s insurer, Blue Cross (“PBC”) only paid the dentist \$546.72. PBC owed the dentist \$453.28 (deduction of \$101). The Appellant required a partial denture because she was biting her tongue every time she chewed or ate and it was bleeding so much that she went to the hospital emergency and they told her to see a dentist for a partial denture. She no longer bites her tongue since wearing the partial denture.

2) Two pages of undated handwritten notes from the Appellant in which she stated she had been ill with allergies but was enclosing her dentist’s invoices for \$1,101 (PBC paid \$546.72) as well as a dental claim form from her dentist, and a letter explaining the reason she needed dentures and the response from the Ministry giving her the go ahead to have the dentures.

3) A Dental Claim Form from the Appellant’s dentist dated October 20, 2014 for two procedures on April 14, 2014: fee code 53102 - Dentures Partial - \$925; and fee code 99111 - Commercial Laboratory Procedure - \$176. Total fee submitted was \$1,101 with handwritten note, “You paid \$546.72 on May 31<sup>st</sup> - PBC Remittance, copy attached”. On a duplicate copy of this form, a note stated “BCDP paid June 4, 2014 \$546.72”.

4) A PBC print-out of dental claims with patient names blacked out except for the Appellant’s name, indicating fee code 53102, claimed amount was \$1,101; eligible amount was \$947.25; percent covered was 100%; Plan paid \$546.72. Comments indicated “We reimbursed the maximum amount allowed under your plan for procedures by general practitioners/ specialists” and “We considered this expense up to the maximum amount allowed under your plan...Processed on behalf of BC Ministry of Social Development Dental Care Plan as administered by PBC.”

5) Three invoices from the Appellant’s dentist:

- January 6, 2014 (“the January 2014 invoice”), fee code 21211 Restoration – Amalgam - Permanent Biscupids and Ant, total less payments and adjustments was \$41,50; account balance as of December 11, 2014 was \$554.28 with notes: “Balance for partial” and “Before partial was billed you had only billed \$227.50 which left you a balance of \$772.50”;
- February 18, 2014 (“the February 2014 invoice”), fee code 11112 Scaling - Two Units, and fee code 43422 Root Planing; total less payments and adjustments was \$40.12. Account balance as of December 11, 2014 was \$554.28; and
- April 14, 2014 (“the April 2014 invoice”), fee code 53102 for “Dentures Partial; total was \$1,101, less payments and adjustments of \$546.72. Invoice balance as of June 6, 2014 was \$554.28 with a note: “This (\$546.72) is what insurance paid. Your balance is \$554.28. Please send post-dated cheques or arrange monthly credit card payments to pay the balance.”

6) A letter to the Ministry from the Appellant dated October 24, 2014. The Appellant stated that in approximately February 2014, she called the “dental department” many times and spoke to various people to ask if the dental services could pay for a partial denture. Every time, the person assured her “yes, the dental plan can pay up to \$1,000 for dentures”. The Appellant stated that she found a dentist and advised them that the Ministry can pay \$1,000 for her dentures. The dental department refused to pay for her partial denture and now the dentist is billing the invoice for \$546.72, which is difficult and stressful because the Appellant is on disability and has many other expenses and no money to pay (the outstanding balance). She had a past problem where she had to accept surgery from an endodontist due to an infection and severe swelling. The Ministry would not pay and the Appellant owed \$1,500 to the endodontist. Based on that experience, she called the Ministry many times to make sure they would pay for her dentures. At this time, they have not paid her dentist.

7) Information in the Ministry’s *Decision to be Reconsidered*, which stated that when the Appellant called, the Ministry advised that she had “\$1,000 for basic dental which includes partial dentures.” The Ministry noted that the Appellant is eligible for basic dental services up to \$1,000 every two calendar years and that coverage must be in accordance with the Ministry fee-for-service schedules. Where the dentist charges a higher fee than the Ministry fee schedules, the result would be a balance bill to the patient. Background information in the Ministry Reconsideration decision indicated that as of the date the Appellant received her partial dentures (April 14, 2014) she had accessed \$453.28 of basic dental services for the period January 1, 2013 to December 31, 2014.

#### *Additional submissions*

In her Notice of Appeal dated April 24, 2015 the Appellant stated that she never received an answer at the reconsideration. The dentist only charged her \$1,000 and PBC stated, “for sure they would pay”.

At the hearing, the Appellant summarized her Request for Reconsideration and her letter to the Ministry of October 24, 2014. She emphasized that she called the Ministry many times, and every time they told her they would cover \$1,000 for her dentures. In response to questions from the panel, the Appellant stated that she called both the Ministry and PBC and they brought up her account details over the phone because she gave her ID and her care card number. The dentist called PBC and was told that that PBC would cover \$1,000. No one told the Appellant she had used up \$453.28 of her dental allowance, and she did not know about the two-year time frame until after she got the bill from her dentist for \$554.28.

In response to further questions, the Appellant stated that she did not recall a dental claim for \$453.28. She had previous fillings in 2013, a gum infection and endodontic surgery that she paid for herself prior to 2013, and she went to the dentist for her dentures and had follow up visits. However, she could not recall any other dental work between January 1, 2013 and December 31, 2014.

At the hearing, the Ministry summarized its reconsideration decision and explained that the Ministry rate for dentures in its fee schedule is \$947.25 (fee code 53102), not \$1,000. The Appellant is, however, eligible for a maximum of \$1,000 for basic dental services (which includes partial dentures) in each two-year period.

In response to a question from the panel, the Ministry stated that the details regarding the dental services that accessed \$453.28 of the Appellant's basic dental allowance is information that is held by PBC. The Appellant would need to obtain the information from PBC or through her dentist and should have been directed to do so by the Ministry staff she spoke with on the phone.

*Admissibility of additional information*

The panel admits the statements in the Notice of Appeal, and the oral testimony as evidence that is in support of the information and records that were before the Ministry at the time the decision being appealed was made, in accordance with section 22(4)(b) of the *Employment and Assistance Act*. In particular, the additional information corroborates the Appellant's evidence that she was told that she was eligible for \$1,000 for her partial dentures, and it substantiates the Ministry's information regarding a claim maximum in each two-year period with specific dental work covered at the rates set out in the Ministry's fee schedules.

## PART F – Reasons for Panel Decision

The issue in this appeal is whether the Ministry's reconsideration decision of March 31, 2015 denying the Appellant's request for coverage of dentist's fees in excess of the Ministry fee rates and the maximum legislated limit of \$1000.00 for the period ending December 31, 2014 pursuant to section 4 of EAPWDR Schedule C, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. Although the Appellant was eligible for dentures as a basic dental service under section 4(2) of Schedule C, she did not meet any of the exemptions in section 4(3) of the Schedule to exceed the limit of \$1,000 for basic dental services over a two-year period. In addition, the Ministry found that there was no exception in policy to cover fees of \$153.75 that were in excess of the rates set out in the Schedule of Fee Allowances - Denturist.

The Ministry determined the Appellant was eligible for a maximum dental allowance of \$546.72 pursuant to section 4(1.1) of Schedule C of the EAPWDR because she had already accessed \$453.28 of basic dental services out of the \$1,000 maximum set out in section 4(1) of Schedule C for the period ending December 31, 2014. The Ministry found that where the dentist charged \$1,101 for the dentures, the Ministry was not authorized to provide coverage for fees of \$153.75 in excess of the rate of \$947.25 set out in the Schedules of Fee Allowances.

### *Legislation - EAPWDR*

As a recipient of disability assistance, the Ministry may consider the Appellant's request for partial dentures under the following sections of the EAPWDR:

#### **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.

(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 - Health Supplements**

### **Definitions**

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

(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, 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,

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

(c) Repealed

(2) Dentures may be provided as a basic dental service only to a person

(a) who has never worn dentures, or

(b) whose dentures are more than 5 years old.

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- (3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if
- (a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,
  - (b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or
  - (c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.
- (4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.
- (5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under
- (a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances - Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
  - (b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances - Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule. (B.C. Reg. 94/2005)
- (6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under
- (a) fee numbers 51101 to 51102 in the Schedule of Fee Allowances - Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
  - (b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances - Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.
- (7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.

The Ministry's Dental Supplement information booklets outline the policy and fee schedules for partial dentures:

## **Ministry of Social Development Dental Supplement – Dentist**

### **Denture Policy**

Initial Placement – Partial Denture(s) in excess of the basic dental limit It is important to note that not all Ministry clients qualify for partial dentures. Eligibility for this service must be confirmed prior to beginning treatment. See the Eligibility Information section on page (v). For eligible clients, partial dentures will be considered in excess of their limit, if all of the following conditions apply: 1. At least one extraction is required for relief of pain and the extraction has been done in the preceding six months, 2. The extraction(s) must result in 3 or more adjacent/contiguous missing teeth on the same arch, and 3. The Ministry has not paid for a denture on the same arch within the past five years. Fee items will be restricted to the 52000 series outlined in the Schedule of Fee Allowances - Dentist. No cast dentures will be covered in excess of the client's limit.

**Part B - Schedule of Fee Allowances - Dentist** pages 1 - 23 The Schedule of Fee Allowances - Dentist lists the eligible services and fees associated with the Ministry's Dental Supplements and the provision of basic dental services. It contains the rules, frequency and financial limits associated with each service.

Partial dentures  
Free End, Cast Frame/Connector with clasps and rests  
53102 Mandibular \$947.25

**Ministry of Social Development Dental Supplement - Denturist**

**Part B - Schedule of Fee Allowances - Denturist** pages 1 - 5 The Schedule of Fee Allowances - Denturist lists the eligible services and fees associated with the Ministry's Dental Supplements and the provision of basic dental services. It contains the rules, frequency and financial limits associated with each service.

PARTIAL DENTURES Note: Partial dentures are an eligible item once every five years. Any lab costs are included in the stated fee. Arch code required. Temporary or provisional appliances are not covered. Partial denture fees include: – Diagnostic models, analysis and suggested design – Proposed tooth preparation, selection and master impression – Bite-registration, mold selection and shade – Try-in – Insertion and occlusal equilibration – Adjustments and 6 months post-insertion care – Patient referral back to prescribing dentist for post-insertion examination of prosthetic

Cast Frame  
Free End, Cast Frame  
41114 Maxillary 787.50  
41124 Mandibular 787.50  
Tooth Borne, Cast Frame  
41254 Maxillary 787.50  
41264 Mandibular 787.50 Acrylic Base

The panel will address the Ministry's findings for section 4 of Schedule C of the EAPWDR as this is the section it relied on in the reconsideration. The panel will further address the Ministry's finding that there is no exception in policy to provide dental coverage for fees in excess of rates set out in the Schedules of Fee Allowances.

*Schedule C - sections 4(1.1) and 4(1)*

*Ministry's position*

In its reconsideration decision, the Ministry submitted that section 4(1.1) sets out that the Ministry may pay for basic dental services by providing a dental supplement under EAPWDR section 63 up to a maximum of \$1,000 for each period. Section 4(1) defines "period" as a two-year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year. The Ministry assessed the Appellant's two-year service period as running from January 1, 2013 to December 31,



2014 and argued that as of the date the Appellant received her partial dentures (April 14, 2014), she had already accessed \$453.28 of her \$1,000 limit, and had \$546.72 remaining for her partial dentures.

*Appellant's position*

The Appellant argued that she called the Ministry repeatedly to ensure they would cover the cost of her dentures, and they told her each time that they would pay \$1,000. As her dentist charged \$1,101, the Appellant understood that she would owe \$101 that she could pay in installments. She did not find out that she had accessed \$453.28 of her dental allowance and had a two-year time frame until her dentist advised that PBC only covered \$546.72, and that she owes an outstanding balance of \$554.28. She does not know what the \$453.28 was for and she considers it unfair that she has an outstanding balance when the Ministry provided her with misinformation regarding how much they would cover for her dentures. She feels disappointed and thinks that the Ministry should pay because of their miscommunication.

*Panel decision*

The panel finds that the Ministry reasonably determined that the Appellant was entitled to a maximum of \$1,000 for basic dental services for the period January 1, 2013 to December 31, 2014. Section 4(1.1)(b) of EAPWDR Schedule C provides a \$1,000 maximum for adults in the two-year period as defined in section 4(1) of the Schedule. These sections cover basic dental services which include partial dentures, fee code 53102 in the Schedule of Fee Allowances - Dentist. The Schedule of Fee Allowances is cited in EAPWDR section 63, which authorizes dental supplements per the terms of section 4 of EAPWDR Schedule C.

The panel further finds that the Ministry reasonably determined that the Appellant had only \$546.72 available for her partial dentures. The Appellant provided no documentation from PBC or her dentist regarding the \$453.28 that had already been accessed during the two year period, and stated at the hearing that she could not recall a dental claim for \$453.28 in 2013 or 2014 but she had fillings during this period. The January 2014 and February 2014 invoices indicate that other dental work was performed in the two-year period, including restoration, scaling, and root planning, though the amounts of these claims do not add up to \$453.28. The panel acknowledges the Appellant's concern that the Ministry gave her misinformation about the amount she had available; however, given that she has not provided clear evidence to refute that \$453.28 had been claimed, the Panel finds that the Ministry reasonably concluded that it could provide only \$546.72 for partial dentures pursuant to section 4(1.1) of EAPWDR Schedule C.

*Schedule C - Sections 4(2) and 4(3)*

*Ministry's position*

The Ministry submitted that the Appellant is eligible to receive dentures under section 4(2) of Schedule C at the rates set out in the Schedule of Fee Allowances - Denturist because the Appellant did not have dentures previously. However, as the dentist was charging \$1,101 for the partial

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dentures in excess of the \$1,000 limit, the Appellant must therefore meet one of the exemptions under section 4(3) of the Schedule in order to be covered for the difference of \$153.75.

The exemptions include:

- A full denture due to extractions during the previous six months to relieve pain [section 4(3)(a)]; the Ministry argued that the Appellant had had no such extractions and requested a partial, rather than a complete denture;
- A partial denture to replace at least three contiguous missing teeth on the same arch, at least one of which was extracted in the previous six months to relieve pain [section 4(3)(b)]; again the Ministry indicated that the Appellant had had no extractions; or
- A need for replacement dentures [section 4(3)(c)]; the Ministry found the Appellant had never had dentures previously and therefore, replacement dentures were not an option.

#### *Appellant's position*

The Appellant argued that based on misinformation from the Ministry regarding how much of the dental allowance was available for her partial dentures, she was treated unfairly and the Ministry should provide the full \$1,000 allowance and not just the \$546.72 that was paid by PBC.

#### *Panel decision*

The panel notes that even if the Appellant had the full \$1,000 dental allowance remaining, she would be entitled to a maximum of \$947.25 as this is the rate for partial dentures as set out in the Schedule of Fee Allowances – Dentist for fee code 53102 (the code shown on the Dental Claim form from the Appellant's dentist) and Section 1 of Schedule C defines "basic dental service" as a service provided at the rate set out in the Schedule of Fee Allowances. Further, the Appellant's partial dentures were provided by a dentist and not a denturist; therefore, the Fee Allowances - Dentist is the fee schedule that applies to the Appellant's claim. The panel finds, nevertheless, that the Ministry reasonably determined that the Appellant was eligible for dentures under section 4(2) of Schedule C because there is no evidence that she previously had dentures. The panel further finds that the Ministry reasonably determined that none of the exemptions in section 4(3) of the Schedule apply to the Appellant's request for the partial denture because there was no evidence that the Appellant was requesting full dentures [section 4(3)(a)]; had had recent extractions [sections 4(3)(a) and (b)]; or needed replacement dentures [section 4(3)(c)]. Regarding the Appellant's argument that an exception should be made because the Ministry treated her unfairly by providing misinformation, the panel notes that there is no exemption in the EAPWDR for misinformation or miscommunication.

#### *Ministry policy*

The Ministry argued that there is no exception in policy to cover fees in excess of the rates set out in the Schedules of Fee Allowances. Therefore, fees of \$153.75 in excess of the fee code rate of \$947.25 in the Schedule of Fee Allowances - Dentist (not the Schedule for Denturist as explained above) cannot be covered. The Ministry provided a copy of their policy in the Reconsideration record and it states that not all Ministry clients qualify for partial dentures and for eligible clients, partial dentures will be considered in excess of their limit, if all of the following conditions apply: the patient must have undergone extensive extractions in the preceding six months and the Ministry must not

have paid for a denture on the same arch within the past five years. As these policy exceptions mirror conditions that are contained in EAPWDR Schedule C, the Panel finds that the Ministry reasonably concluded that it could not cover the \$153.75 difference between the dentist's charges (\$1,101) and the Ministry rate of \$947.25.

*Conclusion*

The panel finds that the Ministry's denial of the Appellant's request for a dental supplement to cover her outstanding balance for partial dentures is reasonably supported by the evidence and a reasonable application of the applicable enactment, EAPWDR Schedule C. The panel confirms the Ministry's reconsideration decision.