



### PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (ministry)'s reconsideration decision dated July 8, 2015, denying the appellant reimbursement for monies paid by his mother for dental services provided to the appellant outside British Columbia. Specifically, the ministry found that the relevant legislation does not allow for reimbursement of dental expenses outside British Columbia.

### PART D – Relevant Legislation

The relevant legislation is section 72 and 76 and sections 1 and 7 of Schedule C of the Employment and Assistance Regulation (EAR).

## PART E – Summary of Facts

The appellant did not attend the hearing. The Tribunal confirmed that the appellant was properly notified of the time and place of the hearing in accordance with section 89(b) of the EAPWDA.

The appellant is one of a number of children in a family that is receiving income assistance.

On September 11, 2014 the appellant's mother contacted the ministry to inform the ministry that the appellant would be attending university out of province and to inquire as to whether the appellant would be covered by the Healthy Kids Program while attending university. The appellant's mother on the same date also informed the ministry that she had spoken to the Medical Services Plan and been informed that the appellant would be covered 100% by the premium assistance program and to request written confirmation that the appellant would remain covered by the Healthy Kids Program for dental and optical. The ministry informed the appellant's mother that such confirmation was not possible because eligibility for the Healthy Kids Program is determined on a month-to-month basis based on information forwarded to the ministry by the Medical Services Plan.

On a date which is not apparent from the materials the appellant while attending university out of province underwent emergency dental surgery at a dental office to remove a cyst in his mouth. The surgery was urgent so that the appellant did not have the opportunity to return to British Columbia for treatment as to do so was too risky for his health. The dental office invoiced the appellant the amount of \$910 and on February 18, 2015 the appellant paid \$710 of that bill.

On May 20, 2015 the ministry received an email regarding the appellant's application for reimbursement for the dental surgery from the Medical Services Plan. That email indicated that Pacific Blue Cross on behalf of the Medical Services Plan would not be reimbursing the appellant for the cost of the dental surgery because the dental surgeon who performed the surgery is not registered in British Columbia and the surgery took place outside of British Columbia.

On May 26, 2015 the ministry informed the appellant's mother that they were unable to provide reimbursement for the cost of the dental surgery because the legislation requires that all procedures be preapproved, that payments must be made to the practitioner (rather than reimbursed to the patient) and because the medical services must be provided within British Columbia or Alberta.

On June 25 the appellant's mother submitted a request for reconsideration. In this submission the appellant's mother states that she had contacted Medical Services Plan before the appellant left for university to confirm that he was covered and again before the surgery was done to confirm that this procedure was covered and that the procedure was to pay the dental surgeon and submit receipts for reimbursement. She states that because she and her family qualify for Medical Services Plan coverage they also qualify under the Healthy Kids Program for optical and dental and so this procedure should be covered.

In its reconsideration decision the ministry again denied the appellants claim on the basis that in order to be eligible for coverage all dental services must be provided by a "dentist" which is defined as "a dentist registered with the College of Dental Surgeons under the Health Professional Act" which in turn means a dentist who is a member of the College of Dental Surgeons of British Columbia. As



the dentist who provided the appellant with emergency dental surgery is not a member of the College of Dental Surgeons of British Columbia that procedure was not covered. Further, all claims received for processing are paid only to the practitioner and must be within British Columbia or Alberta.

The ministry also considered the appellant's eligibility for coverage under the life-threatening health need sections of the legislation. The ministry found that although the appellant may have faced a life-threatening health need legislation applies only to medical supplies, medical transportation and medical equipment and devices, not to dental surgery. On this basis the ministry found that the appellant did not qualify under the life-threatening health needs section of legislation.

## PART F – Reasons for Panel Decision

The issue under appeal is whether the Ministry's reconsideration decision dated July 8, 2015, finding the appellant is not eligible to be reimbursed for medical expenses for emergency dental surgery was reasonably supported by the evidence, or was a reasonable interpretation of the legislation in the circumstances of the appellant.

The relevant legislation is section 72 and 76 and sections 1 and 7 of Schedule C of the EAR.

### **Dental and optical supplements – healthy kids program**

**72** The minister may provide a health supplement in accordance with section 7 of Schedule C to a dependent child of a person who, when the service was provided, was receiving premium assistance under the *Medicare Protection Act* and who does not qualify for a supplement under section 67 (1) [general health supplements].

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

**76** 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).

## **Schedule C - Health Supplements**

### **Definitions**

**1** In this Schedule:

...

“**dentist**” means a dentist registered with the College of Dental Surgeons of British Columbia continued under the *Health Professions Act*,

### **Dental and optical services – healthy kids program**

**7** (1) In this section, “**period**” means a 2 year period beginning on January 1, 2009, and on each subsequent January 1 in an odd numbered year, (B.C. Reg. 65/2010)

(2) Subject to the following limits, the minister may pay under section 72 [dental and optical supplements – healthy kids] of this regulation for the following health care services for a child of a person who, when the service was provided, was receiving premium assistance:

- (a) basic dental services, to a maximum total of \$1400 for each period year for all basic dental services provided to the child during the year; (B.C. Reg. 65/2010)
- (b) basic eyewear and repairs;
- (c) pre-authorized eyewear and repairs;
- (d) emergency dental services.

[Redacted]

The Ministry based its position on the findings at reconsideration that the ministry is unable to reimburse the appellant because: (i) in order for a medical expense to be covered, the legislation requires that the dentist who performs a surgery be a member of the College of Dental Surgeons of British Columbia, which the dentist who performed the emergency dental surgery on the appellant is not, and (ii) this expense is not eligible under the life-threatening health need sections of the legislation because dental surgery is not included in the list of procedures that are covered by those provisions.

In the Reasons for Appeal section of the appellant's Notice of Appeal, the appellant writes:

*Background on Sept.29/14 we were told based on our income taxes for 2013 our son [name deleted] was covered and did get a letter that premium assistance was covered with a brochure enclosed about Healthy Kids dental. Based on letter and the brochure we believed we were covered otherwise why included a brochure. We then sent a letter and brochure given in mail to us to the University and they told us we didn't need coverage as the premium assistance letter plus the brochure on Healthy Kids said he was covered.*

The panel finds the following:

This is an unfortunate situation in which there seems to have been some miscommunication and misunderstanding, as well as, as noted by the ministry at the hearing, a very unusual set of circumstances. It is important to be clear that the Medical Services Plan and the Healthy Kids Program are two distinct programs offered by two different ministries. Neither the ministry nor this panel can speak to whether the dental services provided to the appellant qualify for coverage under the Medical Services Plan. So that the question before this panel concerns only whether the ministry's determination was reasonable that the dental services provided to the appellant do not qualify for coverage under the Healthy Kids Program.

Under section 72 of the EAR the minister may provide health supplements in accordance with section 7 of schedule C to a dependent child of a person who is receiving premium assistance under the Medical Services Plan. These health supplements include emergency dental services. Emergency dental service is defined as a dental service provided by a "dentist". Under section 1 of Schedule "C" "dentist" is defined as "a dentist registered with the College of Dental Surgeons under the *Health Professional Act*." Under the *Health Professional Act* a dentist is defined as a member of the College of Dental Surgeons of British Columbia.

In this case the dental surgery performed on the appellant was performed by a dentist who is not a member of the College of Dental Surgeons of British Columbia. Consequently, procedures performed by this dentist are not eligible for coverage under the legislation. Accordingly, the panel finds that the ministry's determination that the dental service provided to the appellant is not eligible for coverage under the Healthy Kids Program was a reasonable interpretation of the legislation in the circumstances.

Section 76 of the EAR provides that the ministry may provide medical supplies, medical transportation, and medical equipment and devices to a family unit if the ministry is satisfied that the person faces a direct and imminent life-threatening need and has no resources to meet that need, the



health supplement is necessary to meet that need, the family unit is receiving premium assistance under the Medical Services Program and a certain other legislative requirements are met.

As this section applies only to medical supplies, medical transportation, and medical equipment and devices the appellant's dental surgery does not qualify. Accordingly, the panel finds that the ministry's determination that the dental service provided to the appellant is not eligible for coverage under the life-threatening health need provisions of the legislation was a reasonable interpretation of the legislation in the circumstances.

The panel concludes that the ministry's determination that the dental services provided to the appellant are not eligible for reimbursement by the ministry was a reasonable interpretation of the legislation in the circumstances and confirms the ministry's decision.