

PART C – Decision under Appeal

Under appeal is the Ministry of Social Development and Social Innovation's ("the ministry") July 24, 2015 reconsideration decision denying the appellant coverage for a crown and bridgework on the basis she does not meet the eligibility requirements set out in the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule C, section 4.1(2), and that the ministry is not authorized to provide coverage in excess of the rates in the Schedule of Fee Allowances – Crown and Bridgework. The ministry also determined the appellant is not eligible under section 69 of the EAPWDR as it was not established she faced a direct and imminent life-threatening need for the services requested, and the remedy under section 69 applies only to medical supplies, medical transportation, and medical equipment and devices, not to dental and denture supplements.

PART D – Relevant Legislation

EAPWDR Employment and Assistance for Persons with Disabilities Regulation, sections 63.1 and 69, and Schedule C, section 4.1(2)

Schedule of Fee Allowances – Crown and Bridgework Effective April 1, 2010

PART E – Summary of Facts

The evidence before the ministry at reconsideration was

- As a Person with Disabilities transitioned to medical services only, the appellant is eligible for crowns and bridgework under section 63.1 and Schedule C section 4.1 of the EAPWDR.
- April 1, 2015 Standard Dental Claim form with ancillary documentation submitted by the appellant's dentist to Pacific Blue Cross (PBC), with a note explaining the necessity for crown/bridge, saying the 46 cusp fracture needed full coverage to prevent tooth loss, tooth will not hold simple restoration, and a prescription note from her physician stating she has a medical condition that requires her to have a non-removable upper plate.
- April 1, 2015 estimate from dentist totalling \$4116.30.
- April 13, 2015 letter from PBC to dentist requesting further information.
- April 27, 2015 letter from PBC rejecting the requested treatment.
- April 30, 2015 letter from the family physician stating the appellant had bilateral mastectomy, osteoporosis and COPD which caused increasing difficulty as her phlegm is getting caught in her upper removable dental partial plate, that she needs a fixed partial plate from her dentist to prevent her choking spells and speech disturbances, which will also help her in mastication to ensure her nutrition for her conditions.
- May 11, 2015 letter from PBC rejecting the requested treatment.
- May 12, 2015 letter from PBC headed *Dental Predetermination Summary* showing total amount submitted \$4116.30, amount approved by PBC \$0.00.
- June 3, 2015 letter from the appellant stating she has COPD and is prone to coughing up mucus which catches on the upper plate causing her to gag and throw up, that this is a serious problem when she is driving, and she has to decline social events involving eating. She says both her family doctor and her dentist support the option of a permanent bridge that would eliminate the obstructive part of the removable partial plate and eliminate the problem. She says her dentist advised her that the lower tooth cannot be filled and requires a crown as the only option for fixing that tooth. She says the ministry pointed out to her the statement *Persons with Disabilities and Persons with Persistent Multiple Barriers who have a dental condition that cannot be corrected through basic dental services and have a medical condition that prevents the use of a removable denture are also eligible for funding for crown and bridgework.*
- Employment and Assistance Request for Reconsideration form signed by ministry worker June 23, 2015.
- June 25, 2015 letter from the appellant requesting additional time to submit her Request for Reconsideration.
- June 25, 2015 Request for Reconsideration form signed by the appellant reiterating her reasons for requesting a reconsideration and requesting an extension of time to obtain advocacy services.
- An extension to July 24, 2015 was granted.
- On July 3, 2015 the appellant's advocate requested an extension of time. The further extension was declined, as under the EAPWDR section 72 the ministry was authorized to grant only an extension of twenty business days.

With the reconsideration decision the ministry attached a chart showing the dentist's fees for services and the ministry rates, illustrating how the dentist's fees exceeded the ministry rates.

Upon appeal the appellant submitted a letter stating that choking is life-threatening, can result in blockage of the airway, and without oxygen permanent brain damage can occur in as little as 4-6 minutes. In many cases when phlegm causes her to cough, her eyes water, she starts to choke and begin to throw up. This is a danger to her and others when it happens while she is driving, and she has choked while eating and it is a concern that food can enter the lungs. The tooth on the lower right has caused difficulty when she was eating, she began choking, and a piece of the tooth dislodged and went down her throat.

PART F – Reasons for Panel Decision

The issue is the reasonableness of the ministry's reconsideration decision denying the appellant coverage for a crown and bridgework on the basis she does not meet the eligibility requirements set out in the EAPWDR, Schedule C, section 4.1(2), that the ministry is not authorized to provide coverage in excess of the rates in the Schedule of Fee Allowances – Crown and Bridgework, nor was the appellant eligible under section 69 of the EAPWDR as it was not established she faced a direct and imminent life-threatening need for the services requested, and the remedy under section 69 applies only to medical supplies, medical transportation, and medical equipment and devices, not to dental and denture supplements.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

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;*
 - (b) a person with disabilities who has not reached 65 years of age and who has ceased to be eligible for disability assistance because of*
 - (i) employment income earned by the person or the person's spouse, if either the person or the person's spouse*
 - (A) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or*
 - (B) is aged 65 or more and a person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement,*
 - (ii) a pension or other payment under the Canada Pension Plan (Canada), or*
 - (iii) money or value received by the person or the person's spouse that is maintenance under a maintenance order, maintenance agreement or other agreement, if either the person or the person's spouse*
 - (A) is under age 65 and the family unit is receiving premium assistance under the [Medicare Protection Act](#), or*
 - (B) 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) a person with disabilities who was a recipient of disability assistance on the day he or she became 65 years of age;*
 - (d) a person referred to in section 62 (1) (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, or*
 - (e) a person whose family unit ceases to be eligible for disability assistance because of financial assistance provided through an agreement under section 12.3 of the [Child, Family and Community Service Act](#), during the term of the agreement.*
- (1.1) A person eligible to receive a crown and bridgework supplement under subsection (1) (b) (ii) 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.*

(1.2) A person eligible to receive a crown and bridgework supplement under subsection (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.

(1.3) A person who was eligible to receive a crown and bridgework supplement under subsection (1) (b) (i) or (iii) or (d) 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.

(2) Repealed. [B.C. Reg. 67/2010, Sch. 2, s. 5 (f).]

[en. B.C. Reg. 430/2003, s. 3; am. B.C. Regs. 170/2008, App. 2, s. 5; 67/2010, Sch. 2, s. 5; 114/2010, Sch. 2, s. 6; 27/2014, s. 7.]

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).

[en. B.C. Reg. 61/2010, s. 4; am. B.C. Reg. 197/2012, Sch. 2, s. 8.]

SCHEDULE C Health Supplements

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.

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- (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.*

Appellant's Position

The appellant argues she is supported by her doctor and dentist for the requested dental work she needs because her COPD causes her to cough up mucus, which catches on her existing upper removable partial plate causing her to gag and throw up and her eyes to water. She says that is dangerous when she is driving, that she has to decline social events involving eating, and resulting choking can be a life-threatening risk.

The appellant also argues her dentist advised the damaged lower tooth cannot be filled, that the only repair option is a crown.

Ministry's Position

The ministry argues with respect to the requested bridgework no evidence was provided that remedial measures to the upper partial denture have been taken, (i.e. adjustment, reline or rebase), or that any of the circumstances in the applicable legislation exist for the bridgework and therefore the request does not meet the legislated eligibility criteria set out in Schedule C section 4.1(2)(b) of the EAPWDR.

With respect to the requested crown, the ministry argues the dental practitioner did not establish the dental condition precluded the provision of restorative services set out under the Restorative Services section of the *Schedule of Fee Allowances – Dentist*, in particular the use of stainless steel crowns, nor was there evidence restoration was performed but failed, therefore the requirements of Schedule C section 4.1(2)(a) were not met, and evidence was not provided that the circumstances set out in Schedule C section 4.1(2)(b) exist.

The ministry also says it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Crown and Bridgework.

The ministry considered the eligibility for coverage for a life-threatening health need provided by EAPWDR section 69, and argues the information provided did not establish the appellant faced a direct and imminent life-threatening need for the services requested, and that the remedy provided by section 69 applies only to medical supplies, medical transportation and medical equipment, not to dental and denture supplements.

Panel's Decision

The appellant requests bridgework to replace her upper removable denture partial plate that is causing her to choke because of her medical condition. She describes the choking as a life-threatening risk. The cost quoted for the crown and bridgework is \$3192.10. She also requests a

crown for tooth number 46, as her dentist reported the tooth was fractured and would not hold simple restoration. The dentist quoted \$924.20 for a full cast metal crown for the tooth, for a total of \$4116.30 for the two procedures.

Eligibility for bridgework

In determining the appellant's eligibility for bridgework, the ministry accepted her dental condition precludes the provision of restorative services under the Restorative Services section of the *Schedule of Fee Allowances*, but noted there was no evidence presented that the partial plate had been adjusted or altered to try to resolve the problem.

EAPWDR Schedule C section 4.1(1) provides a supplement may be paid for crown and bridgework under the terms of the *Schedule of Fee Allowances – Crown and Bridgework* if pre-authorized by the minister. Section 4.1(2) requires the supplement may be paid only if the minister is of the opinion the dental condition cannot be corrected by the provision of basic dental services set out in the Restorative Services section of the *Schedule of Fee Allowances – Dentist* **and** one of four listed circumstances exists: the dental condition precludes the use of a removable prosthetic, the person has a physical impairment making it impossible to place a removable prosthetic, an allergic reaction or other intolerance to the composition or materials in a removable prosthetic, or a mental condition preventing the assumption of responsibility for a removable prosthetic. The information did not indicate any of these conditions apply to the appellant. The panel finds the ministry's determination that the appellant does not meet the eligibility requirements of EAPWDR Schedule C section 4.1(2) to be a reasonable application of the legislation in the circumstances of the appellant.

Eligibility for crown

The appellant's dentist stated a crown was needed because the fractured tooth would not hold a simple restoration, and quoted a fee of \$539.90 for a full cast metal crown. The ministry's says the information provided by the appellant's dentist does not establish the dental condition precluded the provision of restorative services set out under the Restorative Services section of the *Schedule of Fee Allowances – Dentist*, in particular the use of a stainless steel crown. For that reason, the panel finds the ministry's denial of coverage for the requested crown for failing to meet the requirement of Schedule C 4.1(2)(a) to be a reasonable application of the legislation.

The ministry's observation there was no evidence the conditions in EAPWDR Schedule C section 4.1(2)(b) exist is inapplicable to the requested crown as the conditions deal with a removable prosthetic.

Eligibility for coverage at requested fees

If the coverage had been authorized by the ministry, it would be subject to the *Schedule of Fee Allowances – Crown and Bridgework*, for a total of \$2471.51. The quote submitted by the appellant's dentist totalled \$4116.30. The panel finds as reasonable the ministry's determination that the ministry is not authorized to provide coverage for fees in excess of the rates in the *Schedule of Fee Allowances*.

Eligibility for coverage as a life-threatening health need

EAPWDR section 69 provides for any health supplement set out in Schedule C for a person who is otherwise not eligible if the person faces a direct and imminent life-threatening health need. The panel finds the ministry's conclusion that there was no information the appellant was facing a direct and imminent life-threatening condition, and in any event the remedy in the legislation does not include dental and denture supplements, to be a reasonable application of the legislation in the circumstances of the appellant.

The panel finds the reconsideration decision to be a reasonable application of the applicable enactment in the circumstances of the appellant, and confirms the decision.