

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Social Innovation (the ministry) dated July 13, 2016 which denied the appellant's request for payment for a denture in excess of the rates allowed for "denture services" in accordance with sections 69 and section 5 of Schedule C of the Employment and Assistance Regulation.

PART D – Relevant Legislation

Employment and Assistance Regulation (EAR), section 69 and sections 1 and 5 of Schedule C

Schedule of Fee Allowances - Denturist

Employment and Assistance Act (EAA), sections 27 and 28

PART E – Summary of Facts

The appellant is a single person in receipt of employment and assistance benefits. The appellant attended a dentist on April 5, 2016 for an emergency examination and diagnosis and to have 5 teeth in his upper arch removed. The full cost of the examination, diagnosis and extraction was covered at ministry rates. Subsequently the appellant was told by a dentist that the cost of the required denture (an “Immediate Complete Maxillary Denture”) was \$1,575.00. The amount that the ministry was prepared to pay was \$675.00, leaving a balance of \$900.00 to be paid by the appellant.

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

1. Undated standard dental claim form from the dentist indicating that Pacific Blue Cross on behalf of the ministry would pay \$675.00 of the total fee of \$1,575.00 towards the cost of an “immediate upper denture” with a balance of \$900.00 owing;
2. Pacific Blue Cross claim details statement printed July 12, 2016 showing examination and extraction services provided by the dentist to the appellant on April 5, 2016, including the amounts paid and claimed; and
3. Request for Reconsideration (RFR), signed and dated May 25, 2016. In the RFR the appellant indicated that he could have \$20 per month deducted from his income assistance amount and applied towards the \$900.00 owing to the dentist.

Evidence On Appeal

The appellant did not indicate why he disagreed with the ministry’s reconsideration decision in his Notice of Appeal submitted on July 15, 2016.

There was no additional evidence submitted after the reconsideration decision.

The appellant did not attend the hearing. After confirming that the appellant had received notice of the time, date and place of the hearing at least two business days before the commencement of the hearing, as required under EAR Section 85(2), the hearing proceeded without the appellant present.

At the hearing the ministry relied on the evidence presented in the reconsideration decision and summarized that evidence for the panel. The ministry stated that it only has legislative authority to cover eligible costs for eligible family units up to the amounts specified in the appropriate schedule of allowances. The ministry had identified the service to be an “Immediate Complete Maxillary Denture” which is fee number 31311 in the Schedule of Fee Allowances – Denturist and the ministry was able to cover the maximum amount of \$675 towards the service in this instance.

Regarding evidence included in the reconsideration decision to the effect that the appellant contacted the ministry on May 25, 2016 to report that the appellant’s dentist had initially informed him that the cost of his denture would be covered by the ministry “but later advised (the appellant that) the ministry would provide only partial payment”, the ministry said that its policy was to require that a written estimate or invoice be provided before a decision on the amount that could be covered was made. However, the ministry confirmed that denturists were not obliged to provide a written estimate to the client before the denture was provided, and that sometimes a client will incur the cost and seek reimbursement or partial reimbursement from the ministry rather than wait for approval and then have the ministry pay the appropriate fee directly to the dentist on the client’s behalf.

PART F – Reasons for Panel Decision

Issue under appeal

The issue under appeal is whether the ministry decision, which held that the appellant is not eligible for coverage for dentures in excess of the rates allowed for a “denture services” in accordance with section 69 and section 5 of Schedule C of the EAR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The relevant legislation is as follows:

EAR and Schedule of Fee Allowances - Denturist

Denture supplement

- 69** (1) Subject to subsection (2), the minister may provide any health supplement set out in section 5 [denture supplements] of Schedule C to or for
- (a) a family unit in receipt of income assistance, or
 - (b) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.
- (2) A person is not eligible for a health supplement under subsection (1) unless
- (a) the person is not eligible for a supplement under section 68 [dental supplements], and
 - (b) the person has had tooth extractions that were performed in the last 6 months because of pain and resulted in the person requiring a full upper denture, a full lower denture or both.

Schedule C

Definitions

- 1** In this Schedule:

"denture services" means services and items that

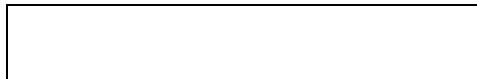
... (b) if provided by a denturist

- (i) are set out under fee numbers 31310 to 31331 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) are provided at the rate set out for the service or item in that Schedule ...

"denturist" means a denturist registered with the College of Denturists of British Columbia established under the *Health Professions Act*

Denture supplements

- 5** The health supplements that may be provided under section 69 [denture supplements] of this regulation are denture services.



Schedule of Fee Allowances – Denturist (Effective April 1, 2010)

FEE NO.	FEE DESCRIPTION	FEE AMOUNT (\$)
31310	Complete Maxillary Denture	581.25
31311	Immediate Complete Maxillary Denture	675.00
31320	Complete Mandibular Denture	581.25
31321	Immediate Complete Mandibular Denture	675.00
31330	Complete Maxillary and Mandibular Dentures	1162.50
31331	Immediate Complete Maxillary and Mandibular Dentures	1350.00

EAA

Overpayments

27 (1) If income assistance, hardship assistance or a supplement is provided to or for a family unit that is not eligible for it, recipients who are members of the family unit during the period for which the overpayment is provided are liable to repay to the government the amount or value of the overpayment provided for that period ...

Liability for and recovery of debts under Act

28 (1) An amount that a person is liable to repay under this Act is a debt due to the government that may be ... (b) deducted, in accordance with the regulations, from any subsequent income assistance, hardship assistance or supplement for which the person's family unit is eligible or from an amount payable to the person by the government under a prescribed enactment ...

Appellant's Position

The appellant has not provided an argument as to why he feels that the ministry should cover more than the fee allowance amount, other than to indicate that, according to the ministry, the denturist had originally informed him that the full cost of the denture would be covered by the ministry.

The appellant also indicates in his RFR that, if his request for full coverage of the cost of the denture in the amount of \$1,575.00 is denied, he would be able to accommodate a \$20 per month deduction from his income assistance to be applied towards the outstanding debt.

Ministry's Position

The ministry's position is that the appellant has received the maximum amount of coverage allowed under the EAR and that the ministry has no authority to provide an additional amount to cover any of the difference between what the dentist charges and the fee amount.

In addition, the ministry's position is that it has no authority to deduct \$20 per month from the appellant's income assistance and apply it towards the \$900 owing to the dentist.

Panel Decision

As the appellant is in receipt of income assistance and because he has had tooth extractions that were performed in the last 6 months due to pain which resulted in him requiring a full upper denture, he is eligible for denture services under Schedule C section 69 and Schedule C section 5 of the EAR.

Schedule C section 1 of the EAR states that if a dental service, such as a denture, is provided by a dentist, and if the ministry client is eligible for that service, the ministry is authorized to provide the service up to the fee amount set out in the Schedule of Fee Allowances – Dentist. As indicated in the reconsideration decision, the maximum fee amount for an immediate complete maxillary denture (fee number 31311) is \$675.

With regard to the ministry's position that it has no authority to deduct an amount from the appellant's income assistance and apply it towards a third party debt, section 28 of the EAA permits the ministry to recover overpayments of a supplement to a family unit who was not eligible for it by deduction from any subsequent income assistance, but there are no provisions in the EAA to make future deductions on behalf of a third party. As the ministry did not overpay the health supplement in this instance, there is no authority for the ministry to make a deduction from any subsequent income assistance towards the \$900 balance owing for the denture.

In the circumstances of the appellant's case, and for the foregoing reasons, the panel finds that the ministry was reasonable in concluding that the appellant has received the maximum amount of coverage allowed and that the ministry has no authority to provide an additional amount to cover the difference between what the dentist charges for the denture and the allowable rate.

Conclusion

The panel finds that the ministry's decision to cover \$675 of the cost of the denture in this instance was a reasonable application of the applicable enactment in the circumstances of the appellant.

The panel further finds that the ministry's position that it does not have the authority to deduct an amount from the appellant's monthly income assistance and apply it to a third party debt is also a reasonable application of the legislation in the circumstances of the appellant.

The ministry's decision is confirmed and the appellant was not successful in his appeal.