



PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated July 29, 2016 which denied the appellant's request for coverage for a crown for tooth #36 because the appellant did not meet the legislative requirements pursuant to section 69 and schedule C subsections 4.1(1)(c) and 4.1(2)(a) and (b) of the Employment and Assistance Persons with Disabilities Regulation (EAPWDR).

PART D – Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 6 and Schedule C, subsections 4.1(1)(c) and 4.1(2)(a) and (b).

Schedule of Fee Allowance – Crown and Bridgework.

PART E – Summary of Facts

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

1. 2-page claim details as of July 29, 2016, which indicates that on January 28, 2016 and February 17, 2016 there was restorative work done on tooth #36;
2. Tooth map;
3. Letter from the insurance company signed and dated March 21, 2016, which states that “a crown or bridgework may be paid only if the ministry is of the opinion that the eligible person has a dental condition that cannot be corrected through the provision of basic dental services because”, and quote schedule C 4.1(2)(a) and (b);
4. 2-copies of X-rays showing tooth #36;
5. Standard dental claim form dated March 2, 2016, which states “pre-authorization. Xrays attached. Missing tooth 46. Initial placement. Crown is needed to save tooth. Extremely large patchwork fill is deteriorating and compromising tooth. Patient unable to wear removable LPD due to emotional and physical barriers. Tooth is periodontally sound and would be a waste to extract [the tooth] due to cororal breakdown”. The request was then made under code 27211(porcelain) for tooth #36 at a dentist fee rate of \$624.20 and laboratory charge of \$295.00 for total of \$919.20. Code 27211 is then crossed off and code 27301(full metal) is written in by hand;
6. Undated letter from the appellant in which she describes the challenges she faces with tooth #36 and how her physical and mental conditions contribute to her challenges with her tooth;
7. The ministry’s crown and bridge case profile sheet with check marks in some boxes and ‘x’ marks in other and the following handwritten notes: “digital - February 17/16. Large restoration “save tooth”. Physical barriers? Fibromyalgia. Chronic pain – not relevant”. Tooth #36 is indicated beside fee code 27301. Under relevant history “4) January 28, 2015, 1) February 17, 2016. At the bottom of the sheet a handwritten notes states “why not ss (stainless steel) crown? Criteria not met – looking for a long term solutions;
8. Plan benefits as of March 18, 2016;
9. The insurance company’s approval letter dated March 23, 2016 which indicates that the appellant is approved for \$0.00 for a crown (code 27301) for tooth #36;
10. Letter from the appellants general practitioner (GP) signed and dated June 27, 2016, which lists the appellant’s medical conditions, the compounded challenges she faces due to issues with her teeth and the GP “recommends a crown to stabilize her general health”; and
11. Request for reconsideration (RFR) signed and dated April 11, 2016 which describes the challenges the appellant faces due to the deterioration of tooth #36 and how her challenges are compounded by her other physical and mental conditions.

Evidence On Appeal

In the Notice of Appeal (NOA), signed and dated August 8, 2016, the appellant states in part:

- A crown is the only way to restore the tooth because as fillings fall out they take with them chunks of the tooth;
- Extraction would leave unable to chew at all as there is a tooth missing on the other side of her mouth; and
- The pain in her mouth is causing pain in her arm so the tooth is having an impact on the rest of her body.

Evidence At The Hearing

Additional Evidence

At the hearing the appellant submitted a clear copy of the X-ray of her teeth which was before the ministry at the time of reconsideration. She also submitted another copy of the Standard dental claim form dated March 2, 2016 where the code 27211 is not crossed off and the following note is added: "This tooth has been filled so many times, we can't refill it again if it breaks (which could happen as soon as tomorrow!). The only hope for this tooth is to crown it before it's too late. This tooth is critical for proper mouth functioning".

At the hearing the appellant stated:

- The ministry thinks basic dental work will work but the dentist thinks otherwise;
- The temporary measures taken thus far are breaking down;
- The molar on the other side of the mouth was extracted over 40 years ago therefore extraction of tooth #36 is not an option;
- The ministry has said no but have not offered any other options;
- She takes care of her teeth but there is only 15% of tooth #36 left and 85% is filling when the filling falls out it will take part of the tooth with it;
- The dentist did not discuss a stainless steel crown;
- Cannot use dentures due to her fibromyalgia, chronic pain and emotional trauma; and
- She has no other resources to cover the cost of a crown.

At the hearing the ministry relied on its reconsideration decision.

Admissibility of Additional Evidence

On review of the evidence, the panel notes that the copy of the x-rays and standard dental claim form were not "new evidence" but rather, they specifically relate to and referred to the documents that were before the ministry at reconsideration. The panel therefore finds that the additional evidence is admissible as it is in support of the information and records that were before the minister when the decision being appealed was made, pursuant to section 22(4)(b) of the *Employment and Assistance Act*.

PART F – Reasons for Panel Decision

The issue on the appeal is whether the ministry's decision which denied the appellant's request for a crown for tooth #36 because the appellant did not meet the legislative requirements pursuant to section 69 and schedule C subsections 4.1(1)(c) and 4.1(2)(a) and (b) of the Employment and Assistance Persons with Disabilities Regulation (EAPWDR), was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The legislation provides as follows in the EAPWDR:

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) a person in the family unit is eligible to receive 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).

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.

(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.

The Appellant's Position

The appellant argues that her tooth cannot be 'saved' with basic dental services and that her mental inability to have removable objects in her mouth, fibromyalgia and chronic pain make her eligible under Schedule C subsection 4.1(2). She also argues that since a tooth on the other side of her mouth was extracted over 40 years ago she will not be able to chew food if tooth #36 is also extracted. Currently she is able to chew only on her right side due to fear of breaking her tooth on the left (36) and she is experiencing pain as a result. She does not have other resources to pay for the crown therefore should be eligible for a crown under section 69 of the EAPWDR.

The Ministry's Position

The ministry argues that the maximum payout for a porcelain crown (code 27211) is \$624.20 inclusive of the laboratory fees and \$539.90 for a full cast metal crown but the appellant's dentist has submitted a claim for \$919.20. Therefore the appellant does not qualify for a crown pursuant to Schedule C subsection 4.1(1) EAPWDR. Also the Schedule o Fee Allowance – Crown and Bridgework does not allow a porcelain crown for teeth ending in the numbers 6, 7 and 8. The ministry also argues that the information provided by the appellant and her dentist does not demonstrate either that her tooth cannot be restored through basic dental services or that the appellant has a dental, physical, allergic or mental condition that precludes her from using a removable prosthetic pursuant to Schedule C subsection 4.1(2)(a) and (b) of the EAPWDR.

The Panel's Decision

Section 69 of the EAPWDR states that a recipient can qualify for any health supplement if the recipient faces a direct and imminent threat to his/her life and that he/she has no resources to pay for the health supplement. The information provided by appellant, her dentist and GP establish that she faces many challenges and the possible loss of tooth #36. However, the evidence provided does not demonstrate a direct and imminent threat to the appellant's life or that she does not have the resources to pay for the crown. The panel finds that the ministry reasonably determined that the evidence does not establish that the appellant is eligible for a health supplement, in this case a crown, pursuant to section 69 of the EAPWDR.

According to Schedule C subsection 4.1(1) of the EAPWDR, crown and bridgework means dental service that is provided at the rate set out for the services in that said schedule. The ministry argues that the standard dental claim sheet requests a porcelain crown at a rate of \$919.20 which exceeds

the allowable rate under schedule C. In addition, tooth #36 has had two restorative procedures conducted on it within the last 2 years therefore the amount of these two restorative procedures would have to be deducted from the cost of the crown. Finally teeth ending in the numbers 6, 7 and 8 do not qualify for a porcelain crown. The panel notes that the dentist submitted a second standard dental claim sheet requesting a full cast metal crown (code 27301) but did not alter the rate from \$919.20, and that the ministry did not sufficiently address this in the reconsideration decision or at the hearing. It is evident from the ministry's crown and bridge case profile sheet that the ministry considered a full cast metal crown and suggested that a stainless steel crown could be provided under Basic Dental Restorative service but did not provide the appellant with these options. As there is an option for the tooth to be treated with a stainless steel crown under Basic Restorative Services, the panel finds that the ministry reasonably determine that the evidence establishes that the appellant did not meet the requirements for a crown pursuant to Schedule C subsection 4.1(1)(c) of the EAPWDR.

Schedule C subsection 4.1(2)(a) and (b) of the EAPWDR stated that a health supplement may be paid for by the ministry if the dental condition precludes the provision of the restorative services through basic dental services and the recipient has a dental, physical, allergic or mental condition that precludes her from using a removable prosthetic. On its crown and bridge case profile sheet the ministry noted that a stainless steel crown was not considered and the evidence provided the appellant's dentist also demonstrates that a stainless steel crown was not considered or ruled out. Other than stating that another filling will not be sufficient to restore the tooth, the evidence provided by the appellant's dentist does not explain why other basic dental service options will not restore the appellant's tooth.

The appellant states that she has allergic sensitivities and an emotional condition that prevent her from using a removable prosthetic, and her dentist noted this later point on the standard dental claim sheet. However, the panel notes that the dentist and GP do not provided evidence to demonstrate that the appellant has a dental, physical, allergic or mental condition that precludes her from using a removable prosthetic. The panel finds that the ministry reasonably determined that the evidence does not establish that the appellant meets the eligibility requirements for a crown pursuant to Schedule C subsection 4.1(2)(a) and (b) of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for a crown for tooth #36 because the appellant did not meet the legislative requirements pursuant to section 69 and 4.1(2)(a) and (b) of the EAPWDR, was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The appellant is not successful in her appeal.