

PART C – Decision under Appeal

The decision under appeal is the reconsideration decision by the Ministry of Social Development (“the ministry”) dated August 8, 2016 which held that the appellant was not eligible for coverage for a crown because the ministry is not authorized to provide coverage for services that are not set out in the Schedule of Fee Allowances – Dentist and/or Crown and Bridgework. As a result, the ministry is not able to provide funding for services associated with implants.

The ministry determined that the appellant as a recipient of disability assistance was eligible for dental supplements as follows; *basic dental services* under Section 63, *emergency dental services* under Section 64 and under Schedule C, subsection 4, *crown and bridgework*, as set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The ministry also determined that it is not authorized to provide coverage for services associated with implants because they are not set out in the Schedule of Fee Allowances – Emergency Dental-Denturist.

The ministry noted that coverage for eligibility as a Life-Threatening Health need under Section 69 of the EAPWDR only applies to medical supplies, medical transportation and medical equipment and devices and does not include a provision for dental and denture supplements.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 63, 64 and 69.

EAPWDR, Schedule C, sections 1, 4.1 and 5.

Schedule of Fee Allowances – Dentist, Emergency Dental-Dentist and Crown and Bridgework, (April 1, 2010).

PART E – Summary of Facts

With the consent of the parties, the hearing was conducted in writing pursuant to Section 22(3)(b) of the Employment and Assistance Act.

The following evidence was before the ministry at the time of reconsideration:

- A letter dated January 4, 2016 from the appellant's dentist "A" explaining that the appellant had an implant on tooth #35 approximately one year ago and this missing tooth needs to be restored with a crown for the following reasons:
 - It is having a negative impact on her quality of life as well as dental and oral health.
 - It makes it difficult for the appellant to chew on that side, contributing to further wear on the adjacent side.
 - It interferes with her speech and pronunciation and affects the esthetics of her cheek.
 - It allows the healthy adjacent and opposing teeth to move towards the gap. The tipping and rotating is negatively affecting her occlusion to the point where the strain is affecting her "TMJ".
 - The implant on tooth #35 needs to be restored because it will strengthen the quality of the bone and protect against further bone loss.
- A denied predetermination request for \$1140 from dentist "A" dated January 15, 2016 for the appellant's dental claim for procedure 27215, by the plan insurer.
- A Standard Dental Claim Form requesting authorization for procedure 27215 on tooth #35 for the appellant with a dentist's fee of \$740 and a laboratory charge of \$400 totaling \$1,140.
- A letter dated May 25, 2016 from the appellant's dentist "B" explaining that the appellant revealed an osseointegrated implant at position 35. The implant was placed on January 13, 2015 and the only way to restore an implant is to place an implant supported crown. The appellant is missing teeth 35 and 36. An implant is present at tooth #35 and the appellant reports an allergy to acrylic.
- A 2nd denied predetermination request for \$1450 from dentist "B" dated June 13, 2016 for the appellant's dental claim for procedure 27215, by the plan insurer.
- A 2nd Standard Dental Claim Form requesting authorization for procedure 27215 on tooth #35 for the appellant with a dentist's fee of \$1500 (total).
- A Request for Reconsideration dated July 18, 2016 in which the appellant states that she believes the decision is incorrect because her dental condition cannot be corrected through the provision of Basic Dental Services, (a conservative restoration or removal prosthetic) and in her case the conditions exist for considering an exception to the ministry's general policy. The appellant refers to letters from dentists "A" and "B", which show that the appellant's dental condition cannot be treated except by placing an implant supported crown. **The appellant's arguments are indicted in Part F.** The appellant further states that she has included a letter from her physician which confirms her allergy to acrylic.
- A Claim Details out line from the appellant's insurer beginning November 17, 2015 up to and including June 20, 2016.

In a Notice of Appeal dated August 17, 2016, under reasons, the appellant indicates that she knows that this procedure is not included in the Dental Supplement Schedule. She adds that her dentist has confirmed that this treatment is a medical necessity for her and that if this preventative treatment is

not done; she will face considerably higher dental costs in the future. Also, the appellant states that her dentist has confirmed that there is no medically acceptable alternate procedure, in her case.

After reconsideration, but before the hearing, on September 21, 2016, the appellant submitted a copy of a letter from her physician dated July 20, 2016 which confirmed that she is allergic to acrylic materials. The panel chair accepted this late submission as it was in support of the appellant's argument.

The ministry chose not to respond to the late submission as noted above.

Pursuant to section 22(4) of the Employment and Assistance Act, the panel admits the letter from the appellant's physician dated July 20, 2016 as being consistent with and in support of evidence that was before the ministry at the time of reconsideration.

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision which held that the appellant was not eligible for coverage for a crown because the ministry is not authorized to provide coverage for services that are not set out in the Schedule of Fee Allowances – Dentist and/or Crown and Bridgework. As a result, the ministry is not able to provide funding for services associated with implants.

The ministry determined that the appellant as a recipient of disability assistance was eligible for dental supplements as follows; *basic dental services* under Section 63, *emergency dental services* under Section 64 and under Schedule C, subsection 4, *crown and bridgework*, as set out in Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The ministry also determined that it is not authorized to provide coverage for services associated with implants because they are not set out in the Schedule of Fee Allowances – Emergency Dental-Denturist.

The ministry noted that coverage for eligibility as a Life-Threatening Health need under Section 69 of the EAPWDR only applies to medical supplies, medical transportation and medical equipment and devices and does not include a provision for dental and denture supplements.

Relevant Legislation- 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 section 62.

Emergency dental and denture supplement

64 (1) Subject to subsections (2) and (3), the minister may provide any health supplements set out in section 5 of Schedule C 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), (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).

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).

SCHEDULE C:

Section 1 "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.

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.C. Reg. 94/2005)

(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 deputy minister, (B.C. Reg. 315/2006) (B.C. Reg. 65/2010)

(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.C. Reg. 94/2005)

(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. (B.C. Reg. 430/2003)

Emergency dental supplements

5 The health supplements that may be paid for under section 64 [emergency dental and denture supplements] of this regulation are emergency dental services.

Schedule of Fee Allowances – Dentist, Emergency Dental-Dentist and Crown and Bridgework

Ministry's Position

The ministry's position is that they are not authorized to provide coverage for services that are not set out in the Schedules of Fee Allowances. As a result, the ministry is not able to provide funding for services that are associated with implants. There are no exceptions in policy and the ministry has no discretion in this matter.

The ministry also determined that the appellant was not facing a direct and imminent life-threatening health need for the services requested and the remedy provided under Section 69 applies to medical supplies, medical transportation and medical equipment and devices; however, does not include dental and denture supplements.

Appellant's Position

The appellant's position is that an exception to the ministry's general policy of providing a

conservative dental restoration or removable prosthetic should be made because she has a dental condition that cannot be corrected through the provision of basic dental services. The appellant argues that her dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Ministry of Housing and Social Development Schedule of Fee Allowances – Dentist, and also her dental condition precludes the use of a removable prosthetic because she has an allergy to acrylic.

Panel's Findings

In determining the reasonableness of the ministry's decision, the panel has reviewed and considered the appellant's written testimony and all medical information confirming the necessity of the appellant's treatment.

The panel finds that while Section 69 of the EAPWDR sets out that a health supplement for persons facing direct and imminent life threatening health need applies only to medical supplies, medical transportation and medical equipment and devices; it does not include dental and denture supplements. Additionally, the panel finds that the Schedule of Fee Allowances – Emergency Dental-Denturist does not authorize the ministry to provide coverage for implants as emergency dental services.

The panel notes that the ministry has no discretion in this respect.

The panel also finds that the ministry is not authorized to provide coverage for services not set out in the Schedule of Fee Allowances-Dentist and Crown and Bridgework. The panel finds that the ministry reasonably determined in accordance with the legislation that it can only pay for dental services set out in the legislation and provided for at the ministry rate set out for the service in the Schedule of Fee Allowances- Crown and Bridgework as per Schedule C, section 4.1 of EAPWDR and that the eligibility criteria was not met.

The panel finds that the ministry decision was a reasonable application of the legislation in the circumstances of the appellant and confirms the reconsideration decision. The appellant is not successful in her appeal.