

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated February 2, 2017, which denied the Appellant’s request for coverage of dental fees in excess of the rates set out in the Schedule of Fee Allowances – Denturist (“the Schedule”) and for a complete mandibular denture. The Ministry determined that the Appellant is eligible for dental supplements under sections 63, 63.1 and 64 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and sections 4, 4.1 and 5 of Schedule C, EAPWDR; however the Ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule. The Ministry found that the Appellant did not meet the criteria for provision of a complete mandibular denture because he did not meet the eligibility criteria listed in section 4, EAPWDR, Schedule C. In addition, the Ministry determined that Section 69, EAPWDR, Health supplement for persons facing direct and imminent life threatening health need, does not apply in this instance because dental and denture supplements are not set out in this section.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) sections 63, 63.1, 64, 69: Schedule C, sections 1, 4, 4.1 and 5; Schedule of Fee Allowances – Denturist (the Schedule)

PART E – Summary of Facts

The Appellant was not in attendance at the hearing. After confirming that the Appellant was notified, the hearing proceeded under Section 86(b) of the Employment and Assistance Regulation.

Information before the Ministry at reconsideration included:

- A predetermination form from Pacific Blue Cross (PBC) dated November 17, 2016 with an approved amount of \$699.00 and a requested amount of \$2,655.00.
- A Dental Predetermination Summary from PBC dated January 28, 2017 with an approved amount of \$675.00 and a requested amount of \$2,800.00.
- A treatment plan from a denturist dated November 23, 2016 in the amount of \$2,190.00.
- A treatment plan from a denturist dated November 17, 2016 in the amount of \$1,800.00.
- A Standard Dental Claim Form - Denturist in the Appellant's name, dated January 5, 2017 with a total fee of \$2,800.
- A Standard Dental Claim Form - Denturist in the Appellant's name, dated October 4, 2016 with a total Fee of \$2,655.00.
- A copy of PBC claim details in the Appellant's name with one claim dated December 29, 2016.
- The Appellant's Request for Reconsideration, signed January 19, 2017.

No additional evidence was provided at the hearing. The Ministry relied on the reconsideration decision.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the Ministry's decision which denied the Appellant's request for coverage of dental fees in excess of the rates set out in the Schedule of Fee Allowances – Denturist ("the Schedule") and for a complete mandibular denture. The Ministry determined that the Appellant is eligible for dental supplements under sections 63, 63.1 and 64 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) and sections 4, 4.1 and 5 of Schedule C, EAPWDR; however the Ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule. The Ministry found that the Appellant did not meet the criteria for provision of a complete mandibular denture because he did not meet the eligibility criteria listed in section 4, EAPWDR, Schedule C. In addition, the Ministry determined that Section 69, EAPWDR, Health supplement for persons facing direct and imminent life threatening health need, does not apply in this instance because dental and denture supplements are not set out in this section.

Legislation

EAPWDR

Dental supplements

63 The minister may provide any health supplement set out in section 4 [*dental supplements*] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is a dependent child, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Crown and bridgework supplement

63.1 The minister may provide a crown and bridgework supplement under section 4.1 of Schedule C to or for

- (a) a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the family unit who is a person with disabilities, or
- (b) a family unit, if the supplement is provided to or for a person in the family unit who
 - (i) is a continued person, and
 - (ii) was, on the person's continuation date, a person with disabilities.

Emergency dental and denture supplement

64 The minister may provide any health supplement set out in section 5 [*emergency dental supplements*] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

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).

Schedule C

1. In this Schedule:

"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,
 - (ii) is provided at the rate set out for the service in that Schedule,
- (b) if provided by a denturist,
 - (i) is set out 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) is provided at the rate set out for the service in that Schedule, and
- (c) if provided by a dental hygienist,
 - (i) is set out in the Schedule of Fee Allowances — Dental Hygienist 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;

Dental supplements

4 (1) In this section, "**period**" means

- (a) in respect of a dependent child, a 2 year period beginning on January 1, 2009, and on each subsequent January 1 in an odd numbered year, and
- (b) in respect of a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.

(1.1) The health supplements that may be paid under section 63 [*dental supplements*] of this regulation are basic dental services to a maximum of

- (a) \$1 400 each period, if provided to a dependent child, and

(b) \$1 000 each period, if provided to a person not referred to in paragraph (a).

(c) Repealed. [B.C. Reg. 163/2005, s. (b).]

(2) Dentures may be provided as a basic dental service only to a person

(a) who has never worn dentures, or

(b) whose dentures are more than 5 years old.

(3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

(a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,

(b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or

(c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.

(4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.

(5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under

(a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or

(b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under

(a) fee numbers 51101 and 51102 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or

(b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.

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

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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.

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.

Appellant's position

The Appellant's position, as stated in his Request for Reconsideration, is that he is a person with disabilities; he had most of his teeth removed with four remaining, which makes it almost impossible to eat. His dentist will not work with Blue Cross, and their payment is dictated by the Ministry.

Ministry's position

The Ministry's position is that the maximum payment for basic dental service is defined in section 1 of Schedule C, EAPWDR, and is provided at the rate set out in the Schedule of Fee Allowances – Denturist. There is no authority to provide coverage for fees in excess of the rates set out in the Schedule.

The Ministry stated that the Appellant submitted quotes from two denturists for two complete dentures. The Pacific Blue Cross (PBC) predetermination found that the Appellant was eligible for a complete maxillary denture at an eligible amount of \$675.00 and an eligible amount of zero for a complete mandibular denture because the partial lower denture provided to the Appellant in December, 2012 was not more than five years old, as required under section 4(2)(b) of Schedule C, EAPWDR. In addition, the Ministry argued that although Section 4(4) of Schedule C, EAPWDR provides that Section 4(2) does not apply with respect to a person who has had a partial denture if extractions were made within the past six months to relieve pain, there is no evidence that the Appellant had extractions in the previous six months. As a result, the Ministry argued that the Appellant does not meet the eligibility requirements set out in Section 4(4) of Schedule C, EAPWDR. The Ministry stated that the Reconsideration Officer contacted PBC, who replied that the Appellant's claims history showed no extractions in the past 24 months.

With respect to eligibility for coverage under Section 69, EAPWDR, Health supplement for persons facing direct and imminent life threatening health need, the Ministry argued that Section 69 refers supplements set out in Schedule C, sections 2(1)(a) and (f) and 3, and refers to medical supplies, medical transportation and

medical equipment and devices, not dental supplements, and therefore is not applicable.

Panel Decision

Section 4 of Schedule C sets out the conditions under which dental supplements may be provided. Subsections (2) (3) and (4) set out additional requirements specific to the provision of “dentures” as a basic dental service. Subsection (3) allows for the limit set out in subsection (1.1) to be exceeded by an amount necessary to provide dentures if certain conditions are met, and subsection (4) provides for an exception to the time requirement under subsection (2)(b) if the person has had extractions in the previous six months to relieve pain. No evidence was provided to demonstrate that the Appellant met this criterion; the Ministry stated in the Reconsideration Decision that they obtained additional information from PBC which indicated that the Appellant had not made a claim for extractions in the past 24 months. The Panel finds that the Ministry reasonably determined that the Appellant did not meet the requirements of Section 4(2) and 4(4) of Schedule C, EAPWDR, and did not meet the requirement for provision of a complete mandibular denture.

The ministry determined that the requirements for the provision of dentures for the appellant in excess of the limit set out in subsection (1.1) of Schedule C, EAPWDR were not met because the Appellant’s current partial denture was provided less than five years ago and there is no evidence that he has had any extractions within the past six months. However, the provision of dentures is also governed by the definition of “basic dental service” in section 1 of Schedule C - a service set out the Schedule of Fee Allowances – Denturist “which is provided at the rate set out for the service in that Schedule.” The services requested are identified by codes 31311 and 31321 and the rate set out in the Schedule of Fee Allowances is \$675.00 per denture plus an examination fee of \$24.00 for a total of \$699.00. The Panel finds that the Ministry reasonably determined that there is no authority for the Ministry to provide coverage at a rate in excess of the rate set out in the Schedule of Fee Allowances – Denturist.

With respect to the Ministry’s determination concerning Section 69, EAPWDR, Health supplement for persons facing direct and imminent life threatening health need, the Panel notes that this section does not refer to dental supplements. The Panel finds that the Ministry reasonably determined that Section 69, EAPWDR does not apply in this instance.

The Panel finds that the Ministry reasonably determined that the Appellant is not eligible for provision of a complete mandibular denture and that he is not eligible for payment of fees in excess of the rates set out in the Schedule of Fee Allowance – Denturist. The Panel therefore confirms the Ministry decision. The Appellant is not successful on appeal.