

PART C – Decision under Appeal

The decision under appeal is the Ministry of Social Development and Social Innovation (the ministry) reconsideration decision dated June 13, 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 cast partial 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 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 cast partial denture or for payment of a new patient exam because he had reached the \$1,000 limit for basic dental services and section 4(3), EAPWDR, Schedule C, which permits the limit to be exceeded, is restricted to the provision of the fee codes for acrylic partial dentures. 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 that section.

PART D – Relevant Legislation

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

PART E – Summary of Facts

Information before the minister at reconsideration included:

- A Dental Predetermination Summary from Pacific Blue Cross, dated April 29, 2017, showing a requested amount of \$2,884 and an approved amount of 0.
- A physician's note dated December 7, 2016 in the appellant's name, stating that he has dental problems affecting his health and he needs financial support.
- The appellant's Request for Reconsideration, signed May 27, 2017, with a note from the appellant stating that he has been diagnosed with a wasting disorder and his dentist informed him that due to bone loss his upper teeth needed to be extracted. He did not know that the dentist was charging for his services and that there are no funds left to subsidize the cost of dentures.

The appellant submitted a letter dated June 25, 2017 with his Notice of Appeal to the Tribunal stating that his denturist advised that acrylic dentures are not suitable for his situation and a letter dated July 11, 2017 with a summary of nutritional studies. The Panel accepted these documents as part of the appellant's submission for argument.

The Ministry's submission is 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 cast partial 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 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 cast partial denture or for payment of a new patient exam because he had reached the \$1,000 limit for basic dental services and section 4(3), EAPWDR, Schedule C, which permits the limit to be exceeded, is restricted to the provision of the fee codes for acrylic partial dentures. 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

General health supplements

62 The minister may provide any health supplement set out in section 2 [*general health supplements*] or 3 [*medical equipment and devices*] 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.

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

Definitions

1 In this Schedule:

"dentist" means a dentist registered with the College of Dental Surgeons of British Columbia continued under the *Health Professions Act*;

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

"emergency dental service" means a dental service necessary for the immediate relief of pain that,

- (a) if provided by a dentist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — 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 in that Schedule, and
- (b) if provided by a denturist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — 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 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 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.

The appellant's position is that he requires a cast partial denture, not an acrylic one that is likely to break, according to his dentist. He argued that he thought the dental services provided at a local charity were free, but the services were billed and exhausted his limit for basic dental services. The Appellant argued that acrylic dentures would be unsuitable and will break, affecting his nutrition and self-esteem.

The ministry's position is that the appellant reached his limit for provision of basic dental services, and therefore is eligible for emergency dental services only, which does not cover the cost of a new patient exam. The ministry argued that payment is limited to the fee codes set out in the Schedule, and the ministry is not authorized to pay for the exam fee charged by the appellant's dentist as it is not covered in the Schedule of Fee Allowances – Emergency Dental Services and there is no provision to pay fees in excess of those set out in the Schedule of Fee Allowances – Dentist. Cast partial dentures are also not listed as a service that may be provided as an emergency dental service. The basic dental service limit of \$1000 may be exceeded for the provision of acrylic dentures but not cast partial dentures. In addition, the ministry determined that the information provided does not establish that the appellant is facing a direct and imminent life-threatening need for the requested dentures, and in any case, the remedy provided under section 69, EAPWDR does not refer to dental and denture supplements.

The panel notes that there is no disagreement that the appellant reached the \$1,000 limit for basic dental services in 2017; therefore the appellant is eligible for emergency dental services. The ministry reasonably determined that the dentist's fee for a new patient exam or cast partial denture is not set out in the Schedule of Fee Allowances – Emergency Dental – Dentist, and therefore is not covered. The ministry determined that the appellant is eligible for provision of dental supplements in excess of the limit under section 4(1.1) of Schedule C, EAPWDR, and the Panel finds the ministry reasonably determined that under the provisions of section 4(5)(b) of Schedule C, EAPWDR, the fee codes for provision of a partial denture are limited to those which would provide acrylic based dentures.

With respect to section 69, EAPWDR, eligibility for coverage as a life-threatening need, the Panel finds the ministry reasonably determined that dental and denture supplements are not set out in that section. The Panel confirms the ministry decision. The appellant is not successful on appeal.