

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated February 5, 2018 which denied the appellant dental fees in excess of the rates set out in the Schedule of Fee Allowances - Dentist, as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)– Sections 62, 63, and 64

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)– Schedule C sections 1,4 and 5

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

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 with the appellant's mother representing her.

The appellant is a recipient of disability assistance and is eligible for dental supplements under Sections 63, 63.1, and 64 and Schedule C, Sections 4, 41 and 5 of the EAPWDR.

The reconsideration decision focused solely on the denial of full coverage for Extraction/Impacted Teeth; Unerupted/Single Tooth #'s 18, 28, 38 & 48. Four (4) of the appellant's teeth were removed on October 25, 2017 incurring Dentist Fees of \$369 per tooth, totalling \$1,476.00. The ministry rate payable was \$150.25 per tooth totalling \$601.

A copy of the appellant's Pacific Blue Cross (PBC) statement dated November 11, 2017 outlined the appellant's claim and eligibility amounts. Confirmation was indicated that PBC paid \$601 of the requested amount of \$1476.

A letter dated December 13, 2017 from the appellant stated that she had 4 wisdom teeth extracted due to extreme pain, infection and headache. As PBC only refunded \$601 of the total cost of \$1,476, the appellant explained that as she is on PWD, and awaiting a double lung transplant due to advanced Cystic Fibrosis and does not have enough funds, she is asking for reimbursement of the remaining \$875. The appellant indicated that she had to get her wisdom teeth extracted before a transplant as any kind of extractions could result in infection and rejection of her new organ.

An undated letter from the appellant's dentist indicated that she underwent necessary extractions on her 4 wisdom teeth on October 25, 2017. The letter confirmed the total cost of the extractions to be \$1,476 which was submitted to the appellant's insurance and that each tooth was reimbursed at \$150.25, a total of \$601 according to the ministry fee guide, leaving a balance of \$875.

In the appellant's Request for Reconsideration dated January 24, 2018, she requests reimbursement for the remaining \$875 that she had to pay to have her wisdom teeth extracted and indicates that she borrowed funds from friends that she must return. The appellant writes that her health is fragile and that she is already stressed out as she doesn't have the money to pay back her friends. "Waiting for a double lung transplant is already itself stressful & anxiety provoking."

In the appellant's Notice of Appeal dated February 12, 2018, the appellant wrote, "As my health has been recently deteriorating (24% lung function) the infected teeth needed to be extracted." The appellant indicated that the transplant clinic told her that she needed to do this before surgery and that there was no other dentist that wanted to risk taking out her wisdom teeth at such a low lung function and oxygen.

At the hearing the appellant's mother testified that her daughter was not feeling well enough to attend. She explained that her daughter was at risk of not having a lung transplant if her infected teeth were not extracted. After two hospitals refused to do the teeth extractions, the appellant was left to find a dentist who would perform the procedure which would have to be conducted with the appellant on oxygen. The appellant's mother indicated that they requested dentist referrals from the ministry in order to find someone who would work according to the fee schedule; however, the ministry would not provide any names. The appellant's mother stated that they could not find a dentist for the fee coverage. The appellant's mother also checked with the head of government health services but was not able to receive any referrals to a dentist.

The ministry representative testified that Pacific Blue Cross is contracted by the government and that the ministry does not provide names of doctors or dentists to their clients. The ministry representative suggested that the appellant may consider contacting some local community resources. The ministry relied on the reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's reconsideration decision dated February 5, 2018 which denied the appellant dental fees in excess of the rates set out in the Schedule of Fee Allowances - Dentist, as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule.

Relevant Legislation

EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES REGULATION

General health supplements

Section 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 under 19 years of age, 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

Section 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 under 19 years of age, 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

Section 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

Section 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.

Schedule C

Definitions: 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 September 1, 2017 and is published on the website of the ministry of the minister, and (ii) **is provided at the rate set out in that Schedule** for the service and the category of person receiving the service,

"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 September 1, 2017 and is published on the website of the ministry of the minister, and (ii) is provided at the rate set out in that Schedule for the service and the category of the person receiving the service, and

Dental supplements

4 (1) In this section,

"period" means (a) in respect of a person under 19 years of age, a 2 year period beginning on January 1, 2017, 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) \$2 000 each period, if provided to a person under 19 years of age, and (b) \$1 000 each period, if provided to a person not referred to in paragraph (a).

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.

Basic Eligibility

Appellant's position

The appellant's position, as stated in her Request for Reconsideration, is that she is a person with disabilities, had 4 necessary extractions and did not receive full funding for the cost of this dental work leaving her owing the balance of \$875 to her friends and that she has no way to pay them back. The appellant argues that she would have risked not having a lung transplant if she did not have the infected teeth extracted and that when the hospitals refused to do the extractions, she made every effort to find a dentist to perform the extractions while she would be on oxygen. She could not however find a dentist to perform the extractions at the ministry rate.

Ministry's position

The ministry's position is that Section 63 of the EAPWDR stipulates the ministry may provide health supplements set out in Section 4 of Schedule C which are "basic dental services". A "basic dental service" is defined in Section 1 of Schedule C, EAPWDR, and is a dental service if provided by a dentist is set out in the Schedule of Fee Allowances – Dentist, effective April 1, 2010 and is on file with the office of the deputy minister and is provided at the rate set out in that Schedule. Therefore, while the ministry is sympathetic with the circumstances of the appellant's case, the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Dentist.

Panel Decision

In its reconsideration decision, the ministry confirms the appellant is eligible for dental supplements under Sections 63, 63.1 and 64 and Schedule C, Sections 4, 4.1 and 5 of the EAPWDR.

Section 63 of the EAPWDR stipulates the ministry may provide health supplements set out in Section 4 of Schedule C which are "basic dental services". A "basic dental service" is defined in Section 1 of Schedule C, EAPWDR, and is a dental service if provided by a dentist is set out in the Schedule of Fee Allowances – Dentist, effective April 1, 2010 and is on file with the office of the deputy minister and is provided at the rate set out in that Schedule.

While the ministry did not address Section 64 of the EAPWDR, the panel noted that this legislation stipulates the minister may provide any health supplement set out in Section 5 [emergency dental supplements] of Schedule C to a family unit in receipt of disability assistance. The health supplements that may be paid for under Section 64 are [emergency dental and denture supplements] of this regulation are emergency dental services. An emergency dental service means a dental service necessary for the immediate relief of pain that if provided by a dentist is set out in the Schedule of Fee Allowances – Emergency Dental - Dentist, effective April 1, 2010 and is on file with the office of the deputy minister and is provided at the rate set out in that Schedule.

The panel notes that the rate for the extractions is the same in both the Dentist and Emergency Dental Schedules.

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 dental service and the allowable rate.

Conclusion

The panel finds that the ministry reasonably determined that the appellant is not eligible for payment of fees in excess of the rate set out in that Schedule of Fee Allowances – Dentist. The panel further acknowledges the ministry's position that there is no exception in policy and that the ministry has no discretion in this matter. Therefore, the ministry's decision is confirmed and the appellant is not successful on appeal.