

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 #11 and 21 because the appellant did not meet the legislative requirements pursuant to schedule C subsections 4.1(2)(a) and (b) of the Employment and Assistance Persons with Disabilities Regulation (EAPWDR). Specifically, the ministry was not satisfied that:

- the appellant has a dental condition that cannot be corrected through the provision of basic dental services, as set out in Section 4.1(2)(a) of Schedule C of the EAPWDR; and
- one of the following exists:
 1. the dental condition precludes the use of a removable prosthetic.
 2. the person has a physical impairment that makes it impossible for him or her to place removable prosthetic.
 3. the person had an allergic reactions or other intolerance to the composition or materials used in a removable prosthetic.
 4. the person has a mental impairment that makes it impossible for him or her to place removable prosthetic.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Schedule C, subsections 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) Dental Claim Form, prepared by the appellant's dentist ('the dentist') and dated September 12, 2017, which requested coverage for crowns (porcelain/ceramic/polymer glass) for teeth #11 and #21. The Dental Claim Form did not provide any further information where asked.
- 2) Pacific Blue Cross ('the insurance company' or IC) letter dated November 14, 2017, which summarizes the eligibility criteria for coverage of crowns and bridgework and indicates that the appellant's request does not meet the criteria:
 - the documents provided does not indicate that the dental condition precludes the provision of restorative services as set out in the Restorative Services section of the ministry's schedule of fee allowances - dental;
 - the clinical explanation submitted does not confirm that the appellant's needs cannot be met through the basic dental services; and
 - the information provided does not confirm that one of the following 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 removable prosthetic.
 - (iii) the person had an allergic reactions or other intolerance to the composition or materials used in a removable prosthetic.
 - (iv) the person has a mental impairment that makes it impossible for him or her to place removable prosthetic.
- 3) Dental Claim Form, prepared by the appellant's dentist and dated November 17, 2017, which requested coverage for crowns (porcelain/ceramic/polymer glass) for teeth #11 and #21. The Dental Claim Form did not provide any further information where asked.
- 4) IC letter dated December 8, 2017, which provides the same information as the letter dated November 14, 2017.
- 5) X-rays of teeth dated September 15, 2017 which included ineligible hand-written comments.
- 6) Letter from the dental office practice coordinator (PC) dated January 17, 2018, which stated in part that the appellant's "restorations are progressively breaking down. These teeth have been repaired several times with the basic restorations failing. Regular fillings will no longer stay on these [teeth] because there is not enough actual tooth structure left to adhere a filling to. A crown is the only solution as it wraps around the entire tooth and can be permanently cemented to stay in place".
- 7) X-ray of teeth dated September 26, 2017.
- 8) Request for Reconsideration, signed and dated January 17, 2018.

Evidence on Appeal

Notice of Appeal, signed and dated February 14, 2018, which stated "without my front teeth I can't eat my food, nor could I get a job, nor feel that good about looking at my smile".

Letter from the PC and the 'Drop-in coordinator' of a local shelter (DC), signed and dated February 27, 2018. The letter stated, in part, the following:

- a dental history of tooth #21, including the indication that due to the limited opportunities to work on the tooth (limited due to the appellant's pregnancy), a crown was placed on the tooth #21.
- the appellant takes an active role in the care and preservation of her teeth with regular dental work and checkups.
- restoration of the tooth was important to preserve her biting function, her smile and ultimately her self-

esteem.

- research shows that poor maternal oral health can lead to pre-term birth.
- the appellant is raising 3 small children and works with women who face barriers and needs her front tooth restored in order to move forward to a paying job.

Evidence at the Hearing

At the hearing the appellant statement included the following:

- there is a need for bone grafting and implants for her upper jaw;
- the request before the ministry is to pay the dentist for the crown placed on tooth #21. The appellant had to have it done in the 2-week period where it was safe to complete such dental work during a pregnancy.
- tooth #11 was previously crowned and the appellant paid for it;
- it has taken 8 years to restore her teeth and she does not see the point in giving up now;
- she is having a baby who has been diagnosed with Down's syndrome and she is expected to have to pay more than usual for his/her care. The father of the baby abandoned her and the baby;
- in addition, food and housing costs are up so it will be difficult to pay for the crown on tooth #21 too;
- a worker from the ministry advised her that the crowns were approved;
- there is more dental work pending after the pregnancy;
- partial crowns will not work due to bone loss; and
- she will try to have her dental work done in a hospital so it is covered under medical coverage.

At the hearing the ministry relied on its reconsideration decision.

Admissibility of Additional Information

On review of the evidence submitted on appeal, the panel finds that the letter dated February 27, 2018 from the PC and DC is information that supports or corroborates the information that was before the ministry at reconsideration. The panel therefore finds that, pursuant to section 22(4)(b) of the *Employment and Assistance Act*, the letter dated February 27, 2018 from the PC and DC is admissible as it is in support of the information and records that were before the minister when the decision that is being appealed was made.

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 #11 and 21 because the appellant did not meet the legislative requirements pursuant to schedule C subsections 4.1(2)(a) and (b) of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant. Specifically, the ministry was not satisfied that:

- the appellant has a dental condition that cannot be corrected through the provision of basic dental services, as set out in Section 4.1(2)(a) of Schedule C of the EAPWDR; and
- one of the following exists:
 1. the dental condition precludes the use of a removable prosthetic.
 2. the person has a physical impairment that makes it impossible for him or her to place removable prosthetic.
 3. the person had an allergic reactions or other intolerance to the composition or materials used in a removable prosthetic.
 4. the person has a mental impairment that makes it impossible for him or her to place removable prosthetic.

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 argued that she needed the crown to be placed on tooth #21 during the 2-week period when dental work is permitted during a pregnancy. The appellant also argued that due to bone loss, a crown was the only option to restore her front tooth, which she requires for eating and a positive outlook regarding her smile.

The Ministry's Position

The ministry argued that the appellant had not met the criteria as set out in the legislation and therefore does not qualify for funding to cover the cost of her crowns (porcelain/ceramic/polymer glass) for teeth #11 and #21. Specifically, the appellant does not meet the criteria of Schedule C subsection 4.1(2) (a) and (b) of the EAPWDR (as stated above).

Panel Decision

In its reconsideration decision, the ministry stated that "in the case of dental supplement, the minister's powers, duties or functions are delegated to Pacific Blue Cross".

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. The panel notes that the evidence provided the appellant, her dentist and the PC or DC, did not demonstrate that a stainless steel crown was considered or ruled out. Other than stating that another filling will not be sufficient to restore the tooth, the tooth is required for biting and for a positive outlook about her smile, the evidence provided, as noted by the IC, does not explain why other basic dental service options will not restore the appellant's tooth; specifically the evidence did not explain why a removable prosthetic, or a plastic or stainless steel crown would not meet the appellant's dental needs or that she is unable to use a removable, or a plastic or stainless steel crown due a dental, physical, allergic or mental condition. The appellant did not argue that she has allergic sensitivities, a physical or a mental condition that prevents her from using a removable prosthetic, or a plastic or stainless steel crown.

The panel finds that the dentist did not provide evidence to demonstrate that the appellant has a dental, physical, allergic or mental condition that precludes her from using a removable prosthetic or that she has a dental condition that precludes her from the provision of the restorative services. 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 #11 and #21 because the appellant did not meet the legislative requirements pursuant to Schedule C subsections 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 the appeal.