

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated December 5, 2017, which denied the appellant's request for coverage of dental fees in excess of ministry rates and coverage of dental services provided on July 7, 2017 (dentures relines - fee codes 56211 and 56212) and July 25, 2018 (tooth colored restorations - fee codes 23111 and 23112) as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Dentist; furthermore, at the time of these requests, the appellant was not a person described in the Employment and Assistance Regulation (EAR) section 68, and therefore was not eligible to receive coverage for basic dental supplements under the EAR section 68 and Schedule C section 4 on the aforementioned dates.

PART D – RELEVANT LEGISLATION

EAR sections 68, 69, 70, and Schedule C.
Schedule of Fee Allowances – Dentist

PART E – SUMMARY OF FACTS

The ministry noted that while the appellant provided documents which speak to a need for replacement dentures these documents do not indicate that a Pacific Blue Cross (PBC) decision concerning coverage of replacement dentures was rendered. On December 4, 2017, the reconsideration officer (RO) had contacted PBC by email, advising they have no record of a request for coverage of replacement dentures. As an initial decision has not been rendered concerning coverage of replacement dentures, this reconsideration decision does not address eligibility for replacement dentures.

On July 7, 14 and 25, 2017 the appellant was a single recipient of income assistance; he was added as a member of a family unit in receipt of Disability Assistance on August 25, 2017.

A Claim Details Form by PBC current to December 4, 2017 shows the following entries:

- 23111-Restorations, Permanent Anteriors, Bonded, One surface, tooth code 33 (Service Date July 25, 2017) was claimed 3 times - on July 25, August 17, and November 15, 2017. It was rejected 3 times with the following note: "This client is eligible for emergency services only."
- 23112-Restorations, Permanent Anteriors, Bonded, Two Surfaces, tooth code 43 (Service date July 25, 2017) was claimed 3 times - on November 15, July 25 and August 15, 2017. It was rejected for the same reason as above.
- 01204-Examination and Diagnosis, Specific Examination and specific situation (Service date July 14, 2017) was claimed twice - on July 14 and on July 28, 2017. The first claim (July 14) was rejected for "emergency services only" and the second claim (July 28) was approved: "We reimbursed the maximum amount allowed under your plan for procedures by general Practitioners/Specialists". \$ 21.75 were approved.
- 02112-Radiographs, Periapical, Two images (Service date July 14, 2017) was claimed twice – on July 14 and on July 28, 2017. The first claim (July 14) was rejected for "emergency services only" and the second claim (July 28) was approved for: \$ 13.59 were approved for the above reason.
- 02601-Radiographs, Panoramic Film (Service Date July 14, 2017) was claimed twice - on July 14 and on July 28, 2017. The first claim (July 14) was rejected for "emergency services only" and the second claim (July 28) was approved: \$38.76 were approved for the above reason.

The appellant's dentist submitted a total fee of \$818 for proposed upper and lower denture relines (fee codes 56211 and 56212) on a Standard Dental Claim Form dated July 7, 2017.

A PBC Dental Predetermination Summary dated July 7, 2017 determined that there is no coverage for the appellant for the following procedures: 56211 (Denture Relining/Maxillary) and 56121 (Denture Relining Mandibular).

An undated Treatment Case Summary prepared by dentist indicates the cost for a denture reline planned for July 7, 2017 (complete maxillary / fee code 56211) to be \$393 / estimated insurance coverage \$54.19, and a denture reline planned for July 14, 2017 (partial mandibular / fee code 56222). Cost: \$211 / estimated insurance coverage \$72.29. The ministry noted that "the information pertaining to the mandibular reline (fee code, amount, and *partial* denture) does not match the mandibular reline information as outlined in the PBC Predetermination Summary dated July 7. The Fee Code used in the Treatment Case Summary (56222) is for a reline to a *partial* mandibular denture. Please note, the reconsideration decision references code 56212, but the finding of ineligibility applies to both codes as further discussed below."

A Dental Benefit Eligibility Lookup printed from the web on Friday July 14, 2017 shows the following entry: "Relines – Upper Denture. 56211 Covered.....Reline - Lower Denture. Covered...Emergency Ministry Covered Denture Relining Procedures 56211 Covered 56212 Covered..."

An undated letter from a denture clinic states that the appellant has reached the point where it has become difficult to eat and his existing dentures are worn beyond repair. Attached is a statement dated September 8, 2017, outlining the basic cost of new dentures.

A note from the dentist's office states that the appellant's coverage is "Emergency only" and the July 25, 2017 restorations [23111 and 23112] are not covered. They have submitted the claim twice with a note from the dentist explaining why treatment was necessary but the claim was rejected. The Patient's Ledger Report dated October 25, 2017 states that the appellant is owing \$161.10:

On July 14, 2017: \$65.80 for "Panoramic", \$23.70 for "2 PA", and \$ 36.70 for "Exam, Specific".

On July 25, 2017: \$122 for "Comp perm ant. Ac 1 sur", \$147 for "Comp perm ant ac 2 Sur".

Payments received:

On July 14, 2017: \$160 by "Cash Payment".

On August 30, 2017: \$74.10 by "Dental Ins Payment-Social Services (MSSH)".

In a letter dated November 8, 2017 the dentist writes that he has seen the appellant on July 14, 2017 "due to discomfort from his complete upper and partial lower dentures. The dentures are more than 4 years old. The complete upper denture has poor suction and is not fitting well. The partial lower denture has good retention and fits well. As there was evidence of decay, [the appellant] agreed to proceed with a complete examination and x-rays on July 14, 2017. It was not possible to confirm coverage over the phone with Pacific Blue Cross due to strike action. Coverage was confirmed and specific codes checked through Provider net. on the Pacific Blue Cross website. [The appellant's] July 14, 2017 claim was initially rejected but after resubmission with a note from myself. \$74.10 was paid by PBC, August 30/2017. The claim submitted July 25, 2017 for restorations was rejected twice and [the appellant] has covered the total cost of \$269. We are submitting [the appellant's] July 25/2017 claim for re-consideration. Please see attached a print out from Provider net. confirming that procedure codes 23111 and 23112 are covered benefits for [the appellant]."

A Dental Benefit Eligibility Lookup printed from the web on Wednesday November 8, 2017 shows the following entry: "Fee numbers 23111, 23112...All restorations, stainless steel and plastic prefabricated crowns are limited to a maximum of two teeth per visit per Emergency."

In a letter dated November 18, 2017 the appellant's advocate who is also his partner writes that on July 14, 2017 he was suffering from dental problems and saw the dentist. She was not aware that the appellant did not qualify for all work done. PBC was on strike and unable to be contacted so the dentist's secretary looked up the codes online and felt they were eligible for the treatment. Then the dentist did a quote for repairs for the appellant's dentures. The appellant is "under [the advocate's] PWD". She only receives an extra 200 dollars for the appellant/spouse which does not even cover the rent increase. Prior to the appellant and his advocate being a couple the appellant was on emergency welfare due to his poor health and being destitute. The appellant's PWD designation is in the process of being approved. The appellant was in such pain and could not eat with or without his dentures and had lost approximately 18 pounds due to this. The advocate/partner deemed this an emergency and brought him to her dentist. The dentist deemed it an emergency and referred the appellant to a denturist as this would be more affordable and a better fit. The appellant has been suffering and waiting for 11 months for PWD designation.

In his Notice of Appeal the appellant writes: "I'm appealing the bill enclosed". He encloses a print-out of his dentist's ledger dated October 25, 2017 (see above) that he has submitted previously with his request for reconsideration.

At the hearing the appellant and his advocate re-told his story and the advocate mentioned that she is fully aware that the appellant was not covered under PWD designation in July but a community group has volunteered to pay for new dentures which he will receive at the end of the month. She clarified that there was no work performed for denture relines.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry reconsideration decision that denied the appellant's request for coverage of dental fees in excess of ministry rates, and coverage of dental services provided on July 7, 2017 and July 25, 2018 as the ministry is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Dentist, and, at the time of these requests, the appellant was not a person described in the Employment and Assistance Regulation (EAR) section 68, and therefore not eligible to receive coverage for basic dental supplements under the EAR section 68 and Schedule C section 4 on the aforementioned dates, was a reasonable application of the legislation or reasonably supported by the evidence.

Dental supplements

68 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 income assistance, **if**
 - (i) the family unit includes a person with persistent multiple barriers to employment, or
 - (ii) the health supplement is provided to or for a person in the family unit who is under 19 years of age,
- (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
 - (i) is a continued person, and
 - (ii) meets any of the following criteria:
 - (A) the person is under 19 years of age;
 - (B) the person was, on the person's continuation date, a person with persistent multiple barriers to employment or part of a family unit that then included a person with persistent multiple barriers to employment.

...

Denture supplement

69 (1) Subject to subsection (2), the minister may provide any health supplement set

out in section 5 [*denture supplements*] of Schedule C to or for

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

(2) A person is not eligible for a health supplement under subsection (1) unless

- (a) the person is not eligible for a supplement under section 68 [*dental supplements*], and
- (b) the person has had tooth extractions that were performed in the last 6 months because of pain and resulted in the person requiring a full upper denture, a full lower denture or both.

Emergency dental and denture supplements

70 The minister may provide any health supplement set out in section 6 [*emergency dental supplements*] of Schedule C to or for

- (a) a family unit in receipt of income 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

Health Supplements

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,

(b) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances — Denturist 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, and

(c) if provided by a dental hygienist,

(i) is set out in the Schedule of Fee Allowances — Dental Hygienist 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;

...

"denture services" means services and items that

(a) if provided by a dentist

(i) are set out under fee numbers 51101 to 51302 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) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item, and

(b) if provided by a denturist

(i) are set out under fee numbers 31310 to 31331 in the Schedule of Fee Allowances — Denturist that is effective September 1, 2017 and is published on the website of the ministry of the minister, and

(ii) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item;

...

"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

(b) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances — Emergency Dental — Denturist, 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;

Denture supplements

5 The health supplements that may be provided under section 69 [*denture supplements*] of this regulation are denture services.

Emergency dental supplements

6 The health supplements that may be paid for under section 70 [*emergency dental and denture supplements*] of this regulation are emergency dental services.

Schedule of Fee Allowances – Emergency Dental - Dentist

FEE NO.	FEE DESCRIPTION	FEE AMOUNT ADULT
01204	Specific Oral Examination	21.75
02112	Two Films	13.59
02601	Panoramic Film	38.76

Basic Eligibility

Appellant's position:

The appellant feels he should be eligible for coverage for basic dental services because he is now a member of a family unit of Disability Assistance and his designation was in the process of being approved when he submitted his claims. The law does not do justice to people like him. When somebody is in pain and needs help, this should be addressed as soon as possible and a dentist should be considered an emergency provider.

Ministry Position:

It is the ministry's position that on July 7, 14 and 25 the appellant was not a person described in the EAR section 68 and therefore was not eligible to receive coverage for basic dental supplements under EAR section 68 and Schedule C section 4 on those dates. However, he was eligible to receive denture services and emergency dental services under EAR sections 69 and 70; and Schedule C, sections 5 and 6, respectively.

Panel Decision:

While the appellant was added as a member of a family unit of Disability Assistance a short while after his claims the panel finds that the ministry reasonably determined that on July 7, 14 and 25 the appellant was not a person described in the EAR section 68 and therefore not eligible for coverage for basic dental services under this section; he is, however, eligible for emergency dental services and denture services set out in sections 69 and 70.

Eligibility for Fees in Excess of Ministry Rates for Services Provided (July 14, 2017)

Appellant's position:

While coverage of \$ 74.10 was approved by the ministry the appellant believes he should be eligible for coverage of the total amount of \$126.20 billed by the dentist for services on July 14, 2017 (fee codes 01204, 02112 and 02601).

Ministry Position:

PBC coverage was provided up to the maximum fee allowances for those particular services as outlined in the Schedule of Fee Allowances – Emergency Dental - Dentist

01204	Specific Oral Examination	21.75
02112	Two Films	13.59
02601	Panoramic Film	38.76

These dental services were covered by PBC as emergency dental supplements (up to the maximum fee allowances). The appellant was eligible for emergency dental services under EAR section 70 and Schedule C, section 1. He was not eligible for coverage for basic dental services under EAR section 68 and Schedule C Section 4, on the dates specified;

An emergency dental service is defined in section 1 of Schedule C as a dental service necessary for the immediate relief of pain 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.

The health supplements that may be paid by the ministry under section 70 and Schedule C, section 6, of the EAR are “emergency dental supplements” as defined in Schedule C section 1. Therefore 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:

The panel finds that the ministry reasonably decided not to exceed the legislated limits set out in the Schedule of Fee Allowances – Emergency Dental – Dentist when it provided coverage for dental services rendered on July 14, 2017 for fee codes 01204, 02112 and 02601. Legislation is clear and the ministry cannot provide coverage for fees in excess of the rates set out in the Schedule - it has no discretion in this matter.

Eligibility for Coverage of Denture Relines (July 7, 2017) and Tooth Coloured Restorations (July 25, 2017)

Appellant's position:

The appellant argues his dental work should be covered under “emergency dental” because he was in pain, could not eat and had lost considerable weight. He needed help as soon as possible and this was an emergency which was confirmed by the dentist. When the secretary looked up coverage online she felt he was eligible for the treatment.

Ministry Position:

On July 7 and 25, 2017 the appellant was a single recipient of income assistance and not eligible for coverage for basic dental supplements under EAR section 68 and Schedule C, section 4. However, he was eligible to receive denture services and emergency dental services under EAR sections 69 and 70; and Schedule C sections 5 (denture services) and 6 (emergency dental supplements).

On November 4, 2017 PBC responded to the RO and stated that the appellant was denied dental coverage for the dental services provided July 7, 2017 (denture relines) and July 25, 2017 (tooth colored restorations) as the appellant was not eligible for basic dental supplements at that time. PBC further stated that there was no information included with his dentist's requests for coverage to establish that he required these services as emergency dental supplements.

The Preamble to the Schedule of Fee allowances-Dentist states that the following with regards to eligibility for emergency dental supplements: “Emergency Dental allows for treatment of an eligible person who needs immediate attention to relieve pain, or control infection or bleeding or if a person's health or welfare is otherwise immediately jeopardized.”

Upon consideration of all documents provided on both October 30 and November 21 (Request for reconsideration) the ministry finds there is not enough information provided by the appellant's dentist and/or denturist to establish that he requires denture relines (July 7) or tooth colored restorations (July 25) for immediate relief of pain, or to control infection or bleeding. Furthermore, the ministry finds the information provided does not establish that his health or welfare would have been otherwise immediately jeopardized without the provision of denture relines (July 7) or tooth colored restorations (July 25). As noted above, on November 4, 2017 PBC stated by email that the appellant's dentist's requests for coverage of denture relines or tooth colored restorations did not include information to establish that he required these services as emergency dental supplements.

The appellant's dentist states in his November 8, 2017 letter that the appellant was seen due to discomfort from his complete upper and partial lower dentures. The dentures are more than 4 years old. The complete upper denture has poor suction and is not fitting well. The partial lower denture has good suction and fits well. Although these statements indicate a poor fitting of his maxillary denture the ministry does not consider these statements indicative of a need for denture relines for immediate relief of pain, to control infection or bleeding, or that without denture relines his health or welfare would have been otherwise immediately jeopardized.

The ministry notes in his letter the dentist states: As there was evidence of decay the appellant agreed to proceed with a complete examination and x-rays on July 14, 2017. This statement suggests the dentist was aware the appellant required restorations as of July 14. However, tooth colored restorations were not provided until July 25. Therefore, it is difficult to establish that the appellant required tooth colored restorations to tooth 33 and 44 for the immediate relief of pain, to control infection or bleeding, or because his health or welfare would have been otherwise immediately jeopardized.

For the reasons cited above it cannot be established that the appellant required denture relines (July 7) or tooth colored restorations (July 25) for the immediate relief of pain, to control infection or bleeding, or because his health or welfare would have been otherwise immediately jeopardized. Therefore, it cannot be established that he required denture relines or tooth colored restorations as emergency dental services. Again, on July 7 and 25 the appellant was a recipient of Income Assistance. He was not a person described in the EAR section 68, and he was therefore not eligible to receive coverage for basic dental supplements under EAR section 68 and Schedule C section 4 on these dates.

Panel Decision:

While the appellant argues that he was in pain and lost a lot of weight because he could not eat the panel finds the ministry was reasonable when it determined there was insufficient evidence that the appellant needed immediate attention to relieve pain, or to control infection or bleeding or if a person's health or welfare is otherwise immediately jeopardized and was therefore not eligible under EAR Schedule C section 6 (emergency dental supplements).

The panel finds the ministry reasonably determined that it could not be established that the appellant required tooth colored restorations for the immediate relief of pain, to control infection or bleeding, or because his health or welfare would have been otherwise immediately jeopardized as the dentist let 1 week go by before he proceeded with the work; the panel finds there is insufficient evidence of a dental emergency as set out in section 70 and Schedule C section 6.

The panel finds further that the ministry reasonably determined that while the dentist's statements indicate a poor fitting of his maxillary denture the ministry does not consider these statements indicative of a need for denture relines for immediate relief of pain, to control infection or bleeding, or that without denture relines his health or welfare would have been otherwise immediately jeopardized; while the dentist noted discomfort caused by the appellant's poor fitting upper denture the panel finds there is insufficient evidence of a dental emergency as set out in section 70 and Schedule C section 6.

Thus, the panel finds the ministry reasonably established that the appellant was not eligible for coverage under Schedule C section 6 (emergency dental supplements) for denture relines proposed on July 7, 2017, and for restorations performed on July 25, 2017.

Conclusion:

The panel finds that the ministry's determination that the appellant is not eligible for coverage of dental fees in excess of ministry rates and coverage of dental services proposed on July 7, 2017 and services provided on July 25, 2018 is a reasonable application of the legislation in the appellant's circumstances. The ministry's reconsideration decision is confirmed and the appellant is not successful on appeal.