

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision dated April 3, 2018, made by the Ministry of Social Development and Poverty Reduction (the ministry) which determined that the appellant was not eligible to receive full coverage for orthognathic jaw surgery expenses because the ministry is not authorized to provide coverage for fees in excess of the rates established by regulation and policy.

PART D – RELEVANT LEGISLATION

The relevant legislation is sections 63, 63.1, 64, 65 and 69, as well as sections 1 and 4 of Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR).

PART E – SUMMARY OF FACTS

The appellant is in receipt of income assistance as a person with disabilities. Over a period of time in 2017 she underwent a series of dental procedures and jaw surgery to address certain medical issues, including a restricted windpipe and resulting sleep apnea. In order to pay for these procedures, the appellant borrowed \$6,377.60. The actual cost of the procedures appears to have been \$6,238.60. Subsequently, the appellant was reimbursed \$2,658.42 by Pacific Blue Cross (PBC) through the provincial Medical Services Program (MSP). This leaves the appellant owing \$3,686.67.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the ministry's decision finding the appellant was not eligible to receive full coverage for orthognathic jaw surgery expenses because the ministry is not authorized to provide coverage for fees in excess of the rates established by regulation and policy.

The relevant legislation is sections 63, 63.1, 64, 65 and 69, as well as sections 1 and 4 of Schedule C of the EAPWDR:

This appeal was held by written hearing by consent of the parties in accordance with section 22(3)(b) of the *Employment and Assistance Act*.

In her Notice of Appeal dated April 7, 2018, the appellant states: "I am on disability from a mental condition and from a head injury – I needed this operation to possibly save my life and to be able to at least work part time and to walk, run, sing, bike and work – it was successful."

At reconsideration and also at appeal, the appellant's grandparents, who are her advocates, provided a letter stating that this "life saving operation" was necessary to "prevent a possible very early tragic outcome". The letter goes on to state that the debt she is left with is "an impossible burden" for her and that it is an "unfair burden to place on her as she is totally disabled and her opportunity to find employment opportunities is severely limited."

The ministry relied upon its reconsideration decision. In that decision the ministry explained how the reimbursement of the costs of dental services is managed.

1. The ministry itself has responsibility for the dental costs that are set out in Schedule C of the EAPWDR based on the eligibility criteria set out in sections 63, 63.1, 64 and 65 of the EAPWDR.
2. Dental services not covered by the ministry may be eligible for coverage through the MSP. The MSP is a program of the Ministry of Health, which has delegated administration of the program to PBC. Dental benefits available under the MSP are set out in a document referred to as "Schedule E".
3. Schedule E sets out specific amounts that are reimbursable for specific dental procedures. These amounts may or may not accord with the amounts actually charged for the procedures.

The ministry then examines whether the costs incurred by the appellant come under Schedule C and finds that they do not.

The ministry then sets out a table listing each of the dental services received by the appellant, the amount actually charged and the amount covered under Schedule E. Overall, there is a shortfall with the total charged being \$6,283.60 and the total reimbursable being \$2,658.42.

In conclusion on this point, the ministry finds that the appellant has been reimbursed in the amounts set out in Schedule E and that it is not authorized to reimburse the appellant in an amount that is in excess of that set out by Schedule E.

The ministry then examines whether the appellant's request qualifies under section 69 as a life-threatening health need and finds that this section only applies to medical supplies, medical transportation and medical equipment, so does not apply to the appellant's request.

Upon review the panel finds that:

1. The dental services in question do not come under Schedule C as they do not meet the requirements of a dental supplement, crown and bridgework supplement or emergency dental or denture supplement.
2. The appellant has been reimbursed for her dental expenses in the amounts set out under Schedule E. The ministry has no authority to reimburse the appellant in any amount in excess of these amounts.
3. The dental expenses incurred by the appellant do not qualify under section 69 as they are not "medical supplies, medical transportation and medical equipment".

Accordingly, the panel finds that the Ministry's decision that the appellant does not qualify for full reimbursement of her dental expenses was a reasonable application of the relevant legislation and confirms the Ministry's reconsideration decision.