

PART C -- DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's Reconsideration Decision dated September 5, 2018 which determined that the appellant's request for coverage for 4 root canals was denied, because the amount the ministry is authorized to pay for root canals is less than the dentist's fees for them. Specifically, the dentist's fees were \$905, while the ministry rate authorized under the Schedule of Fee Allowances for basic dental services for four or more root canals is \$521.77. The Appellant had \$503.34 remaining of her coverage for basic dental services, which the ministry could provide towards the payment for the root canals, but that was \$401.66 less than the dentist's quotation for the four root canals. As root canals are not classified as emergency dental services, the ministry could only provide \$503.34 towards the \$905 cost; the ministry is not authorized to provide coverage for fees in excess of those specified in the Schedule of Fee Allowances -- Dental.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 63, 64 & 69, and Schedule C, Section 1 definition of "Basic Dental Services", and sections 4 and 5

PART E – SUMMARY OF FACTS

Nature of the Appellant's Application

The Appellant applied for a dental supplement for four root canals, at a quoted cost of \$905. She was denied full coverage on the grounds that root canals are paid for at the rate set out in the Schedule, which is \$521.77 for four or more root canals. The Appellant had not exhausted the dental allowance (which is \$1,000 in a two-year period) but had \$503.34 remaining. Thus the amount that the ministry would provide toward the four root canals, would leave \$401.66 unfunded.

Documents and Information Before the Minister at Reconsideration

The documents and information before the ministry at the time of the reconsideration decision included:

A. Original Decision

The original decision denying the Appellant coverage dated August 13, 2018

B. Appellant's Request for Reconsideration dated August 22, 2018, in which she stated

- her teeth were "*seriously bad infected*"
- her gums "*are seriously inflamed*", and that
- these conditions keep her from eating or having anything cold without extreme severe pain, causing her to cry
- she has a huge hole in both her teeth and is on antibiotics for infection
- her condition keeps her up at night and she does not like taking medication and doesn't want to have to take it all of the time because this infection can get into her bloodstream and head and kill her
- if she just drains the infection and does not have root canals then the infection will keep returning and she will have to take medication which she doesn't want to do
- she has no friends or family who are able to lend her money necessary for the root canals
- she has no budget for the necessary dental services as she receives disability and to pay for the dental services would be taking money from her food or rent portion of her assistance and she cannot do that if she has a child
- she is unable to take out a loan
- she has already had to have "*over three dental cleanings this year cos of how severely infected and inflamed my gums are*"
- that the "*bottom line*" is that if her request is not approved and the infection keeps returning, she will die.

C. A Letter from the Dentist with a Fee Quotation Dated August 13, 2018

The dentist quoted \$905 for four root canals showing that insurance would pay \$313.20 leaving the patient to pay \$591.80, advising that the Appellant's tooth #16 must be done due to extreme pain and discomfort, together with four x-ray films.

D. The Appellant's Claims History

Approximately 7½ pages of the Appellant's claims history for dental and other services from

January 30, 2018 to September 5, 2018.

Information Provided on Appeal

In her Notice of Appeal, the Appellant stated that she was appealing because she could not afford dental treatment and an abscessed tooth infection can kill her and she cannot keep taking medication to treat her recurring infections.

Appellant's Additional Evidence

The Appellant provided no additional evidence at appeal

Ministry's Additional Evidence

The ministry provided no additional evidence at appeal.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated September 5, 2018 which determined that the appellant's request for coverage of the quoted cost of \$905 for 4 root canals was denied, was reasonably supported by the evidence or was a reasonable application of the applicable enactment, namely *EAPWDR* sections 63, 64, 69 and Schedule C, sections 4 and 5, in the circumstances of the Appellant.

The ministry denied coverage, saying that it is only authorized to pay for root canals at the amount specified in the Schedule of Fee Allowances - dental, and that fee for four or more root canals is \$521.77, which is less than the \$905 quoted. The ministry would pay \$503.34 towards the root canals because she had that amount remaining of her coverage for basic dental services.

Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Section 63, 64, 69 and Schedule C Sections 4 and 5

Dental supplements

Employment and Assistance for Persons with Disabilities Regulation

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.

Employment and Assistance for Persons with Disabilities Regulation

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.

Employment and Assistance for Persons with Disabilities Regulation

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

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).
- (c) Repealed. [B.C. Reg. 163/2005, s. (b).]

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.

General Scheme of the Legislation

The general scheme is that under section 63 *EAPWDR* an individual who is in receipt of disability assistance may be provided with dental services to a maximum of \$1,000 in any two year period; a period is defined as a two-year block of time beginning January 1, 2003 and thereafter every second January 1 in an odd numbered years, and specific amounts which may be paid for specific dental services within the varying time periods.

Sections 63 & 64 *EAPWDR*

Section 63 *EAPWDR* is the authority for the minister to provide a dental supplement to an individual who is in receipt of disability assistance and section 64 is the minister's authority to provide emergency dental supplements.

Sections 69 *EAPWDR*

Section 69 *EAPWDR* is the minister's authority to provide a health supplement under Schedule C to someone facing a direct and imminent life-threatening need, who is without resources to meet that need.

Schedule C, Sections 4 & 5 *EAPWDR*

Schedule C defines "*basic dental service*" as a dental service that is provided according to the *Schedule of Fee Allowances – Dentist* published on the website of the ministry (*SFA*). That Schedule sets out in detail the types of services and the frequency with which they may be provided as well as providing a prescribed fee for each service.

Schedule C, Sections 4 & 5 *EAPWDR* provide that a person may be provided with a maximum of \$1,000 basic dental services in a "period", which is a two-year block of time beginning January 1, 2003 and then on January 1 in subsequent odd-numbered years. The dollar amount of services provided is subject to specific limitations for specific types of dental work as set out in the *SFA*.

Basic dental services include those services provided under the *SFA* fee item 33141 (ROOT CANAL THERAPY - four or more canals) at a fee of \$521.77

Parties' Positions at Appeal

Appellant's Position

The Appellant's position was that the ministry should fund the full cost of her four root canals, as without them she will keep getting infections, her teeth are now turning black, she has been very ill, and cannot keep taking medications for the recurrent infections. She is in constant pain, has bumps all over her mouth and gums, and these are indicative of the recurrent infections. She has tried to borrow money from family and friends without success and has tried to obtain a loan, also without success. She says that if the infection gets into her bloodstream then she will die.

Ministry Position

The ministry relied upon the Reconsideration Decision, and a pointed out that it is constrained by the legislation which sets out the amounts that can be paid for various dental services under the *SFA*, and pointed out that the fee item for four or more root canals is \$521.77. The ministry reiterated that of the \$1,000 the appellant is permitted in basic dental service benefits every two years, she has \$503.34 remaining and that is all that can be provided for the four needed root canals. In the reconsideration decision the ministry pointed out that the insurance pays \$313.20 toward the root canals, and said that that \$313.20 is subsumed within the fee item of \$521.77 for four or more root canals, and is not in addition to it. The ministry pointed out that as of January 2019 the Appellant would be entitled to another two-year funding of \$1,000 for basic dental services. The ministry suggested that the Appellant look for a dentist who did accept the ministry rates set out in the *SFA*, and could provide the Appellant with a list of those of dentists.

Panel Findings

Section 63 Employment and Assistance for Persons with Disabilities Regulation

This section is the authority for the minister to provide dental supplements as set out in the *SFA*. In order to qualify, the family must be in receipt of disability assistance; that is the person seeking the supplement must be designated as a Person with Disabilities. The ministry agreed that the Appellant was designated as a Person with Disabilities and was, under section 63, entitled to dental supplements pursuant to Schedule C of the *EAPWDR*, and thus qualified for those items set out in the *SFA*.

Section 64 Employment and Assistance for Persons with Disabilities Regulation

This section is the authority for the minister to provide emergency dental supplements under Schedule C for persons who are designated as a Person with Disabilities, as the Appellant is. Section 5 is the authority to pay for emergency dental supplements. A supplement for an emergency dental service is defined as those services set out in the *SFA*.

Root canals are not considered emergency dental supplements under the *SFA*, and the panel

finds that the ministry reasonably applied the *EAPWDR* in determining that the Appellant did not qualify for emergency dental services.

Section 69 *Employment and Assistance for Persons with Disabilities Regulation*

This section provides that the ministry may provide any health supplement to a person not otherwise eligible for a supplement if the person is facing 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 and the health supplement is necessary to meet that need.

The panel finds that while the evidence showed that there are no resources available to the Appellant with which to meet the need for root canals, there was no evidence that the Appellant faced a direct and imminent life-threatening need if the root canals were not provided. The panel finds that the Appellant's statement that if the infection gets into her bloodstream, then she will die, is a reiteration of the statement she made in her request for Reconsideration, and that if a statement of such dire possible consequences is true, that evidence would have to come from a medical professional, not from the Appellant. There was no such evidence from a medical professional.

The panel therefore finds that the ministry reasonably applied the *EAPWDR* in the circumstances of the Appellant in determining that she did not qualify for a supplement under section 69 *EAPWDR* because there is no evidence that she faced a direct and imminent life-threatening need.

Schedule C, Sections 4 & 5 *EAPWDR*

The ministry determined that of the appellant's allowance for basic dental services, which is \$1,000 every two years, she had used part of that allowance, leaving \$503.34 remaining for basic dental services. The fee allowed for fee item 33141 (four or more root canals) of the *SFA* is \$521.77. Thus, the ministry determined that it could pay a maximum of \$503.34 toward the four root canals.

The panel finds that the ministry, in determining that it could pay no more than the \$503.34 remaining of the statutory \$1,000 limit for basic dental services in a two-year period, reasonably applied the *EAPWDR* in the circumstances of the Appellant.

Conclusion

Having reviewed and considered all the evidence and relevant legislation, the panel finds that the ministry's reconsideration decision, which determined that the appellant was not eligible for the full \$905 quoted for four root canals, but was eligible for only \$503.34 toward that cost, was reasonably supported by the evidence and was a reasonable application of the applicable enactment, and confirms the ministry's reconsideration decision dated September 5, 2018.

The appellant is not successful in her appeal.

PART G – ORDER	
THE PANEL DECISION IS: (Check one) <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> BY MAJORITY	
THE PANEL <input checked="" type="checkbox"/> CONFIRMS THE MINISTRY DECISION <input type="checkbox"/> RESCINDS THE MINISTRY DECISION	
If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? <input type="checkbox"/> Yes <input type="checkbox"/> No	
LEGISLATIVE AUTHORITY FOR THE DECISION:	
<i>Employment and Assistance Act</i>	
Section 24(1)(a) <input checked="" type="checkbox"/> or Section 24(1)(b) <input checked="" type="checkbox"/>	
and	
Section 24(2)(a) <input checked="" type="checkbox"/> or Section 24(2)(b) <input type="checkbox"/>	

PART H – SIGNATURES	
PRINT NAME Donald McLeod	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2018/OCT/01

PRINT NAME Gurjit Chaplin	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/OCT/01
PRINT NAME Donald Storch	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2018/OCT/01