

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction's Reconsideration Decision dated May 17, 2018 which determined that the appellant's request for the ministry to pay full coverage in excess of ministry rates for the Appellant's complete new upper and partial new lower dentures in excess of the ministry rates for replacement of dentures was denied. Specifically, the dentist's fees were a total of \$3,545, of which social service agencies paid \$1,800, Pacific Blue Cross paid \$609.08, and the Appellant paid \$276.50, leaving \$859.42 of the dentist bill unpaid. As replacement of dentures is not an emergency service, the ministry could only provide new or partial dentures to a maximum of the fee item 41124 (\$787.50) within the Appellant's allowance of \$1,000 for basic dental services within a two-year period. The ministry could only provide \$585.08 which was the amount remaining within the Appellant's two-year \$1,000 allowance towards the dentures. 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(a), 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 a complete maxillary denture and a partial mandibular denture, at a quoted cost of \$3,545. Of this, \$2,685.58 had been paid by a combination of Pacific Blue cross, Social Service Agencies and the appellant leaving \$859.42 unpaid. The Appellant was denied full coverage on the grounds that dentures are paid for at the rate set out in the Schedule, which is a maximum of \$581.25 and that a new patient exam is paid for at the rate of \$24, all within the two-year maximum of \$1,000.

Documents and Information Before the Minister at Reconsideration

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

A. The Appellant's Request for Reconsideration dated April 26, 2018,

- The Request for Reconsideration included the Decision to be Reconsidered, and attached and included a note from an advocate advising that the advocate would not be available for a period of time,
- A note from the advocate dated May 8, 2017, in which the advocate
 - stated that she would not be available for certain dates
 - argued that two dentists agreed that the Appellant's dentures were an emergency situation due to the Appellant's mouth pain and loss of jaw bone affecting the Appellant's nutritional health
 - said that the Appellant is very ill with complex medical conditions and the ability to chew food is extremely important to the Appellant's overall health and the only way to remedy this is "to fix [the Appellant's] oral health"
 - said that the situation would have been remedied in August 2017 except for having to wait for the Appellant to be designated as a Person With Disabilities in order to qualify for dentures and that because there was no money to cover the full cost 80 dentist wrote a letter in order to raise funds from charities
 - said that after raising funds from charities, the advocate paid the rest and by the time the funds were raised the Appellant was designated as a Person With Disabilities
 - noted that the estimate of insurance coverage from one dentist dated July 14, 2017 \$1,460.12 and an estimate from another dentist was \$1,368.50. The advocate questioned how two dentists could be misinformed as to the insurance coverage
 - the advocate requested reimbursement with a check [sic] in the advocate's name for \$759.42
 - assumed the reason the Appellant did not receive full subsidy is because somebody assumed there has been work on the dentures prior to this time, and noted that if that were the case one of the dentists would have received funding and neither of them it did so the advocate questions why the Appellant was not subsidized the full amount for his dentures
 - stated that the dentures were completed April 19, 2018 and are still being worked on as the Appellant has 3 months for adjustments

- said that the 2nd dentist felt that the Appellant was covered and was surprised that the appellant was not receiving full coverage
- pointed out that no gas was covered by the ministry for travelling to the appointments for the bulk of the visits; each visit necessitating a round trip of about 124 km, at a cost of about \$225 for five appointments
- requested all parties attend in person in order for the advocate and the Appellant to show the condition of the old dentures which cannot be seen over the phone, so as to demonstrate they are unrepairable and are too worn down to be used
- argued the applicability of sections 61.01, 64 of the *EAPWDR* and 4 (3) of Schedule C to the *EAPWDR*.

B. A Dental Clinic's Statement of Account dated April 19, 2018 which shows that the Appellant had a total bill of \$3,545, of which \$1,800 was paid by Social Service Agencies, \$609.08 was paid by Pacific Blue Cross, and \$276.50 was paid by the Appellant; the charges were \$90 for an exam [the panel notes the maximum fee allowed under Schedule C is \$24] and the fees charged were \$1830 for a "Free End Standard Cast Partial Man" and \$1,526 for a "Standard Complete Max".

C. A Printout of Services

This incomplete printout runs from April 11, 2017 to December 7, 2017, and appears to be for services billed to Pacific Blue Cross and the amount paid by it.

D. A Letter From the Advocate Dated April 24, 2018 asking for a Release of Information form, and advising that the appellant might be at the appeal if the appellant's health is good that day but otherwise the advocate will be speaking on the Appellant's behalf.

E. A Letter of from the Appellant and the Advocate Dated April 24, 2018 addressed to the "Denture tribunal"

In this letter the advocate and the Appellant

- explained that the appeal is to do with the "expected amount of \$759.42"
- said that 1 dentist provided an estimate for the Appellant in which the dentist pointed out that the Appellant was eligible for benefits "*from Pacific Blue Cross ministry in the amount of \$1,368.50*", but that "*Pacific Blue Cross ministry only paid \$609.08 in total*"
- said that the Appellant has never had a reline or any work done on the dentures, and that in the summer a quote only was requested from 1 of the dentists, who recommended that the Appellant see a non-profit community dental clinic as a reline was not recommended because the dentures were not capable of being relined
- said that the advocate had no idea why the Appellant was declined full coverage as he was eligible and the dentures were necessary, and arguing that it is possible that this occurred because the quotation was put in for a reline and perhaps "Pacific Blue Cross ministry" thought relining to be possible
- asked that all parties attend in person because the Appellant and the advocate will be showing the condition of the old dentures, which cannot be seen over the phone.

F. A Letter from a Denture Clinic Undated addressed "To Whom It May Concern"

The letter explained that the Clinic had been treating the Appellant for new dentures because he

has reached the point where it has become difficult to eat, and the appellant's existing dentures are worn beyond repair and that in order to aid the Appellant in meeting his nutritional needs, the clinic is working in conjunction with another clinic and the ministry to make the new dentures affordable. The letter attached a statement from Pacific Blue Cross outlining the basic cost of new dentures and the assistance available and saying that the Appellant has an outstanding balance of \$1600 that he is working towards. The statement attached shows that "*Cast dentures will not be covered in excess of the client's limit*", and shows that there is a combined limit of \$1000 per person per 24 months effective January 1, 2005. The statement attached also shows that the limit is for complete combined dentures, complete lower dentures, partial lower dentures, and temporary partial lower dentures which may be provided in any 60 month period from the date of service of the claim.

G. A Letter from a Dentist Dated November 8, 2017

In the letter, the dentist stated that the appellant was seen in the summer of 2017 because of discomfort from his complete upper and partial lower dentures which were more than four years old. The dentist said the complete upper denture has poor suction and does not fit well but the partial lower denture has good retention and it does fit well. The dentist said that as there was evidence of decay the Appellant agreed to proceed with the complete examination and x-rays in the summer of 2017 but that it was not possible to confirm coverage over the phone with Pacific Blue Cross due to strike action. The dentist went on to say that coverage was confirmed in specific codes checked through the Pacific Blue Cross website. The letter went on to say that the claim in the summer of 2017 was initially rejected but after being resubmitted with a note, \$74.10 was paid by Pacific Blue Cross at the end of the summer 2017. The letter also stated that the claim that was submitted had been for restorations which were rejected twice and that the Appellant covered the total cost of \$269 himself. The dentist is resubmitting the claim for reconsideration, attaching a printout and giving procedure codes 23111 and 23112 [the panel notes that in the Schedule of Fee Allowances Dental Supplement – Dentist, those codes are for the provision of Tooth Coloured Restorations for one surface and two surfaces respectively, and have nothing to do with provision of dentures].

H. An Email from a Dental Clinic to the Advocate dated January 22, 2018

The Dental Clinic emailed the advocate advising that the only payment received from Pacific Blue Cross was as per the attached document; the attached document was for fee item 51101 "Complete Maxillary Denture" which was billed at \$1,641.80 and paid at \$981.90 and for fee item 53102 which it is for a "Partial Denture, Cast-Mandibular" which was billed at \$1,698.50 and paid at \$898.28. The email attached a claim form for fee items 56211 and 56212 which are for "Relined maxillary complete denture" and "Relined mandibular complete denture" respectively, for which the allowable fees are \$108.39 each, but which were billed at \$393 and \$425 respectively, totaling \$818.

I. A Pacific Blue Cross Dental Predetermination Summary dated the July 7, 2017

This predetermination summary was in respect of a submitted claim for \$818 of which \$0.00 was approved.

J. A Request for Non-Local Medical Transportation Assistance Dated October 29, 2017

The appellant requested assistance to travel from his residence to the dentist, saying he had to have his advocate with him.

APPEAL NUMBER

Information Provided on Appeal

Appellant's Additional Evidence

The Appellant provided no additional evidence at the appeal.

Ministry's Additional Evidence

The ministry did not attend the appeal, and after having confirmed that the ministry had been notified, the panel proceeded with hearing the appeal in the absence of the ministry, pursuant to section 86(b) of the *Employment and Assistance Regulation*.

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 May 17, 2018, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant. The ministry denied the appellant's request for the ministry to pay full coverage for the Appellant's complete new upper and partial new lower dentures in excess of the ministry rates for replacement of dentures. Specifically, the dentist's fees were a total of \$3,545, of which social service agencies paid \$1,800, Pacific Blue Cross paid \$609.08, and the Appellant paid \$276.50, leaving \$859.42 of the dentist bill unpaid. As replacement of dentures is not an emergency service, the ministry could only provide new or partial dentures to a maximum of the fee item 41124 (\$787.50) within the Appellant's allowance of \$1,000 for basic dental services within a two-year period. The ministry could only provide the \$585.08 remaining within the Appellant's two-year \$1,000 allowance towards the dentures. The ministry is not authorized to provide coverage for fees in excess of those specified in the Schedule of Fee Allowances – Dental.

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,

Schedule C**Definition of "basic dental service"**

"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

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. The individual may be provided with specific amounts which are paid for specific dental services within the varying time periods, to a maximum of the amount allowed for each of the specific services set out in the schedule of Dental Supplements-Dentist and Dental Supplement-Denturist.

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(a) *EAPWDR*

Section 69(a) *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; in the case of the Appellant they are fee items 31310 "Complete Maxillary Denture" for which the fee is \$581.25 and 41124 "Free And, Cast Frame-Mandibular" for which the fee is \$787.50

Parties' Positions at Appeal*Appellant's Position*

The Appellant's position was that the ministry should fund the entire cost of his replacement of dentures. He argued that the ministry made a mistake in that one clinic gave an estimate only and did not do the work and said that the ministry had paid nothing toward his new dentures. When asked about the ministry evidence that the ministry had paid \$585 toward the dentures he said he could not remember. He did say that social service agencies had paid some of the cost. He also agreed that the entire cost had been paid because his former advocate and partner had paid the outstanding amount and what is being sought is reimbursement.

Ministry Position

The ministry was not present. The panel therefore reviewed the reconsideration decision and the material that was present at the time of reconsideration.

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 unit must be in receipt of disability assistance; that is the person seeking the supplement must be designated as a Person with Disabilities. There was no issue 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 dental supplements as set out in Schedule C, which includes 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 Section 5 of 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*.

Section 69(a) *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 because the Appellant's former partner and advocate paid for the dental services, there were resources available with which to pay the appellant's dental bills. The panel further finds that there was no evidence that the Appellant faced a direct and imminent life-threatening need due to the lack of new dentures.

The panel therefore finds that because the appellant did not meet both of the requirements of section 69(a) *EAPWDR* the Appellant is not entitled to a supplement under section 69 *EAPWDR*.

The panel therefore finds that the ministry reasonably applied the *EAPWDR* in the circumstances of the Appellant in determining that he did not qualify for a supplement under section 69(a) *EAPWDR* because there were resources available with which to pay for the appellant's dentures and there was no evidence that the Appellant 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 pursuant to section 4 of Schedule C *EAPWDR*, he had used part of that allowance, leaving \$505.08 remaining for basic dental services. The fee allowed for fee item 31310 "Complete Maxillary Denture" is \$581.25. The fee allowed for fee item 41124 "Free And, Cast Frame-Mandibular" is \$787.50. Both of these fee items are within the definition of "Basic Dental Services" and both fee item amounts are in excess of the amount remaining of the Appellant's two-year allowance of \$1,000. There is no authority for the ministry to pay more than \$1,000 in any two year period for basic dental services. There is authority under section 4 (3) of Schedule C to accede the \$1000 in a two-year period under certain conditions; those are if a person requires a full upper denture, a full lower denture or both because of extractions made in the previous six months to relieve pain. There was no evidence of the Appellant having had extractions made in the previous six months. The limit may also be exceeded if a person requires a partial denture to replace at least 3 contiguous missing teeth on the same March, when at least one was extracted in the previous six months to relieve pain. There was no evidence that the Appellant required a partial denture to replace at least 3 contiguous missing teeth on the same March and no evidence that there was at least one extraction in the previous six months to relieve pain. That subsection also authorizes the ministry to exceed the limit if the person has been a recipient of disability assistance (or income assistance with parenthesis for at least two years. The evidence was that the Appellant had recently been approved for disability assistance, and had not been a recipient for at least two years. Therefore, the Appellant did not qualify for a subsidy in excess of the \$1000 allowance permitted every two years.

The ministry determined that the Appellant was not eligible for an emergency dental supplement under section 64 *EAPWDR* and Schedule C section 5.

The panel finds that the ministry, in determining that it could pay no more than the \$508.08 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.

The panel finds that because there was no evidence of a direct and imminent life-threatening need and that there were resources available to meet the Appellant's need, the appellant is not eligible for a health supplement pursuant to section 69 *EAPWDR*.

The panel finds that the ministry reasonably applied the *EAPWDR* in the circumstances of the appellant when it determined that the dentures were not items that could be paid for as emergency dental and denture supplements because the Appellant was not facing a direct and imminent life-threatening need. The panel further finds that there were resources available to the Appellant's family unit with which to meet his need because the amount owing to the dentist was paid. The panel therefore finds that the ministry 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 cost of the dentures but was eligible for only \$508.08, and was not eligible for an emergency dental supplement, as reasonably supported by the evidence and was a reasonable application of the applicable enactment, and confirms the ministry's reconsideration decision dated May 17, 2018.

The appellant is not successful in his appeal.

PART G – ORDER

THE PANEL DECISION IS: (Check one)

 UNANIMOUS BY MAJORITY

THE PANEL

 CONFIRMS THE MINISTRY DECISION 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? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:*Employment and Assistance Act*Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b) **PART H – SIGNATURES**

PRINT NAME

Donald McLeod

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2018/OCTOBER/15

PRINT NAME

Marnee Pearce

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/OCTOBER/15

PRINT NAME

Barbara Thompson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2018/OCTOBER/15