

PART C – DECISION UNDER APPEAL

Issue on Appeal

The issue on appeal is whether the Ministry of Social Development and Poverty Reduction's (the ministry) reconsideration decision dated February 7, 2019, which denied the appellant full coverage of \$329.00 for restoration of one tooth, and which paid \$203.58, leaving a balance due of \$125.42, was reasonably supported by the evidence or was a reasonable application of the applicable enactment, in the circumstances of the Appellant.

The Reconsideration decision, relying upon the *Employment And Assistance For Persons With Disabilities Regulation (EAPWDR)* sections 63, 64 & 69, and Schedule C, section 1, and Schedule of Fee Allowances - Dentist Fee Guide number 23315 "Five surfaces (maximum)", for an Adult \$203.58, determined that there was no legislative authority for the ministry to pay for more than was authorized by that legislation, and therefore the Appellant was not entitled to a further \$125.42.

PART D – RELEVANT LEGISLATION

Relevant Legislation

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 63 & 64 and Schedule C, Section 1 definition of "Basic Dental Services", and definition of "emergency dental services" and Schedule of Fee Allowances - Dentist Fee Guide number 23315 "Five surfaces (maximum)", for an Adult \$203.58.

PART E – SUMMARY OF FACTS

Nature of the Appellant's Application

The Appellant had had a number of dental procedures provided to her, including restoration on a particular tooth that anchored a partial denture. The dentist charged \$329.00 for this service on January 30, 2019, but the ministry rate was \$203.58, leaving a balance of \$125.42. The issue is whether or not the Appellant is entitled to have that \$125.42 paid by the ministry.

Documents and Information Before the Minister at Reconsideration

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

A. Request for Reconsideration Dated January 24, 2018 in which

- there was a reference to the original decision, which was a denial of coverage, stating that all regulatory criteria have not been met, because the plan has maximum dollar limits and Pacific Blue Cross (PBC) has reimbursed the maximum allowed under the plan
- the Appellant's statements that
 - she is requesting repair or a new a denture, which was denied by the Tribunal in 2018
 - the tooth which supports her denture needs repair
 - a reconsideration is needed
 - in the community in which she lives, the dentist "*is back ten years with billing*"
 - the total amount of \$297 is not covered and \$119.89 is needed to repair the tooth, as an emergency before it falls, and that is the tooth needing repair that holds her denture in place
 - the dentist in the community in which she lives will not absorb the difference between the ministry rates and what the dentist charges, and providing the dentist's telephone number
 - that in 2018 the Tribunal request was denied for a replacement or repair of her denture

B. A PBC Predetermination Explanation Of Benefits - Patient Copy

In this Predetermination Explanation with a submission dated January 17, 2019, PBC related that what was needed was a surface restoration to a particular tooth at a charge of \$297, of which \$177.11 (being the amount for restoration of 4 surfaces) was the payment amount authorized.

C. Dentist's Expense Claims

A series of 34 expense claims from various dentists, with service dates of from April 10, 2018 to January 30, 2019 showing a variety of services was before the Reconsideration Officer.

Information Provided on Appeal

It must be noted that the appeal was scheduled to begin at 9:30 AM, and after waiting for 10 minutes, when the Appellant had not joined the teleconference appeal hearing, the panel commenced the appeal. When the ministry representative was just about finished her presentation, at about 9:55 AM the Appellant joined the teleconference. She was allowed to give

her presentation.

In her Notice of Appeal, the Appellant stated that she was appealing because she has a partial denture, and the anchoring tooth was restored, but the clasp which holds the denture was not repaired.

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

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The Reconsideration decision, relying upon the *Employment And Assistance For Persons With Disabilities Regulation (EAPWDR)* sections 63, 64 & 69, and Schedule C, section 1, and Schedule of Fee Allowances - Dentist Fee Guide number 23315 "Five surfaces (maximum)", for an Adult \$203.58, determined that there was no legislative authority for the ministry to pay for more than was authorized by that legislation, and therefore the Appellant was not entitled to a further \$125.42.

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.

Schedule C EAPWDR "emergency dental service" – Section 1 EAPWDR

"*emergency dental service*" means a dental service necessary for the immediate relief of pain...

Schedule C EAPWDR Section 1 definition of "Basic Dental Services",

"**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,

Schedule of Fee Allowances - Dentist

Fee Guide number 23315 "Five surfaces (maximum)", for an Adult \$203.58.

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*.

Schedule of Fee Allowances (*SFA*) - Dentist

The *Schedule of Fee Allowances - Dentist* sets out fees that may be paid by the ministry (after authorization by PBC) for various procedures. In this case, restoration of 5 surfaces of 1 tooth is provided for under Fee Guide 23315, and for an adult is \$203.58.

Parties' Positions at Appeal

Appellant's Position

The Appellant said that she had appealed because she wanted the clasp on the tooth which anchored the denture repaired, because until it is repaired she has trouble eating and has to use her tongue to hold her denture in place.

The Appellant said she understood that the ministry would not pay the difference between the dentist's bill of \$329.00 and the authorized amount of \$203.58 for the tooth restoration, and that there was a balance owing, but what she was appealing was the refusal to pay for the clasp repair. She said that the Tribunal had refused to accept her appeal concerning the clasp.

Ministry Position

The ministry submitted that there had never been a referral by a dentist to PBC for the clasp repair, and because there had not been such a referral, then PBC could not have either approved or denied it, there could not have been a Reconsideration. The ministry further submitted that because there had not been and could not have been a Reconsideration, there could not have been an Appeal.

The ministry submitted that the Appeal was confined to the issue of whether or not the Appellant should be entitled to have the balance of \$125.42 owing for the tooth repair to be paid by the ministry. The ministry submitted that the Appellant was not entitled to have that balance paid because the fees were as set out in the *Schedule of Fee Allowances - Dentist*, that the allowable fee for the 5-surface repair of the Appellant's tooth was \$203.58, and there is no legislative authority to pay more.

Panel Findings

This Appeal was complicated by the Appellant's belief that the particular tooth needed a clasp on it repaired so that it would hold her partial denture. Her Notice of Appeal referred to the need

to repair the clasp, as well as restore the tooth.

The panel finds that on the evidence submitted, including the dental claims from Pacific Blue Cross (PBC), there was no referral to for the clasp repair, but only for the restoration of the tooth to which the Appellant's denture was anchored. As PBC has been delegated the Minister's powers, duties and functions in relation to dental services under the *Employment and Assistance For Persons With Disabilities Act*, section 25, there would have to be a referral to PBC if the ministry was to pay for the clasp repair.

The panel finds that there had been no application by the Appellant to the ministry for the clasp repair and there could therefore have been no refusal and because there was no refusal there could be no Request for Reconsideration, nor an appeal to the Employment and Assistance Appeal Tribunal.

The panel finds that this Appeal is confined to the issue of whether or not the ministry is required to pay the difference between the dentist's fee of \$329.00 for the 5-surface repair of the tooth and the authorized rate set out in the Schedule of Fee Allowances - Dentist.

There was no issue as to whether or not the Appellant has been designated as a Person with Disabilities, and therefore entitled to benefits pursuant to section 63 *EAPWDR*.

The panel finds that there was no evidence that the repair sought by the Appellant was for the immediate relief of pain, and it was therefore not an emergency, and therefore the Appellant is not entitled to a health supplement pursuant to section 64 *EAPWDR* as an emergency.

Conclusion

The panel, having reviewed all the evidence and relevant legislation, finds that the ministry's Reconsideration determination that it could pay no more than the \$203.58 authorized for Fee Guide item 23315, in the *Schedule of Fee Allowances - Dentist*, was reasonably supported by the evidence and was a reasonable application of the applicable enactment, namely the *EAPWDR*, in the circumstances of the appellant.

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 R. (DAN) McLEOD	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019/MAR/13

PRINT NAME ANNE RICHMOND	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/MAR/13
PRINT NAME ANGIE BLAKE	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019/MAR/13