

--

PART C – DECISION UNDER APPEAL

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated January 18, 2019 that denied the appellant’s request for coverage in excess of ministry rates for dental work done on November 20, 2018. The ministry determined that it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fee Allowances – Dentist, as provided in section 1 definition of basic dental service in Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

PART D – RELEVANT LEGISLATION

EAPWDR Schedule C section 1 and 4

PART E – SUMMARY OF FACTS

With the consent of both parties, the hearing was conducted as a written hearing, pursuant to section 22(3)(b) of the Employment and Assistance Act.

The appellant is a sole recipient of disability assistance.

The information before the ministry at the time of reconsideration included the following:

- Request for Reconsideration (RFR) dated November 21, 2018 that outlined as reason for denial:
 - Services were done on November 20, 2018 and Pacific Blue Cross (PBC) paid in full for three services and a partial payment of \$177.11 for permanent bicuspid, bonded, four surfaces on a dentist charge of \$297, and
 - PBC is limited to what it can and cannot pay for as set out in the Ministry Fee Schedule and they advised that the appellant has reached the maximum financial limit.
- A statement of services rendered dated November 20, 2018 that showed the appellant had current charges of \$353.70 and \$119.89 owing.
- PBC summary of services paid for November 20, 2018 which were:
 - Examination and Diagnosis - \$21.75 claimed and \$21.75 paid;
 - Radiographs \$9.95 claimed and \$9.95 paid;
 - Retentive Pins \$25 claimed and \$25.00 paid;
 - Permanent Bicuspid, Bonded, Four surface \$297.00 claimed and \$177.11 paid; and
 - Examination and Diagnosis \$17.40 claimed and \$17.40 paid
- Ministry Dental Supplement – Dentist dated September 1, 2017 that lists the eligible services and fees associated with the ministry's Dental Supplements and the provision of basic services.

On the Notice of Appeal form dated January 23, 2019 the appellant wrote that there is a difference in the ministry fee guide and the BC dental fee guide and that he is on disability and cannot afford to pay the difference in fees with \$119.89 owing.

A Written Submission Extension Request form was approved on February 11, 2019 citing the appellant needed time to get an advocate.

A Release of Information form signed by the appellant on February 8, 2018 authorized an advocate to be his representative.

In his written submission dated February 20, 2019 the appellant wrote that on November 20, 2018 he required dental services for a broken tooth, and that under ministry legislation he is eligible for \$1,000 dental coverage every two years, which he has not exhausted. The appellant wrote that the dentist charged for the service they provided him according to the BC Dental Association Suggested Fee Guide, which he attached to the submission. The appellant wrote that PBC has covered \$177.11, a fraction of the fee the dentist charged under the BCDA guide, and that these are standard fees the dentists in BC charge for the listed services. The appellant wrote that he is on a fixed income and disabled and that this was not a service he could have avoided or shopped around for a better price.

The ministry's written submission in this matter is the reconsideration summary provided in the Record of Ministry Decision.

Admissibility of Additional Information

There was no additional information provided that was not before the ministry at the time of reconsideration.



PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry was reasonable in denying the appellant’s request for coverage in excess of ministry rates for dental work done on November 20, 2018. More specifically, the issue is whether the ministry determination, that it is not authorized to provide coverage for fees in excess of the rates set out in the Schedule of Fees – Dentist as pursuant to section 1 definition of basic dental service in Schedule C of the EAPWDR, is reasonably supported by the evidence or is a reasonable application of the legislation in the circumstances of the appellant.

The applicable legislation is from the EAPWDR, Schedule C:

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

4 Dental Supplements

(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). *Schedule of Fee Allowances - Dentist*

And from “**Dental Supplement – Dentist**” as posted on the ministry’s website:

Part A - Preamble - Dental Supplements – Dentist:

The attached Part B - *Schedule of Fee Allowances - Dentist* outlines the eligible services and fees associated with the Ministry’s Dental Supplements and the provision of basic dental services. It contains the rules, frequency and financial limits associated with each service. All frequency limitations include services performed by dentists, denturists and hygienists.

Part B – Schedule of Fee Allowances – Dentist

Bonded Bicuspid

Fee No.	Fee Description	Fee Amount \$
23314	Bonded Bicuspid - Four surfaces	\$177.11

Analysis

The appellant's position is that he is eligible for \$1,000 dental coverage every two years, which he has not exhausted and that the dentist charged for the service they provided according to the British Columbia Dental Association Suggested Fee Guide (BCDA), which was \$297. The appellant wrote that PBC only covered \$177.11, and that it is unreasonable that some of the most marginalized population in the province have less coverage than the actual cost.

The ministry's position, as set out in the reconsideration decision, is that they are authorized to provide coverage for basic dental services, defined in EAPWDR Schedule C section 1 as being "those which are provided at the rate set out for the service in the Schedule of Fee Allowances – Dentist". The appellant's dentist charged \$297, however the Schedule of Fee Allowance rate that is set is \$177.11, so this is the amount that was paid by PBC. The ministry position is that they are not authorized to provide coverage for fees in excess of the rates set out in the Schedule, that there are no exceptions in policy and the ministry has no discretion in this matter.

Panel Decision

The panel notes that the appellant is a recipient of disability assistance and as such is eligible for dental services as set out in EAPWDR Schedule C. After reviewing Schedule C section 1, definition of basic dental services, the panel read that a dental service, if provided by a dentist, is provided at the rate set out for the service in the Schedule of Fee Allowances – Dentist that is effective September 1, 2017. Schedule C section 4 sets out the limits for basic dental services, which, in the appellant's circumstance, is a maximum amount of \$1,000 in a two-year period.

The panel notes that the Schedule of Fee Allowances (SFA) dated September 1, 2017 sets the fee for the service in dispute (bicuspids, bonded, four surfaces) at \$177.11, and the BCDA Suggested Fee Guide dated February 1, 2018 notes a suggested fee of \$297. The panel cannot speculate as to whether the SFA is ever adjusted to match the BCDA Guide. Currently the legislation cites, pursuant to the September 1, 2017 SFA, that the amount that can be paid, in the appellant's circumstance, is \$177.11, and therefore finds that the ministry reasonably determined that that it was not authorized to provide coverage for fees in excess of the rates set out in the SFA.

The panel reviewed Schedule C section 4 and interprets that this section sets out the maximum limits and time frames for the ministry's authority to pay for basic dental services. Basic dental services are defined in section 1, and they include the requirement that services are paid out only at the rate set in the SFA. The panel finds that the appellant's argument that he had not reached his yearly maximum to be irrelevant, in this situation, because the definition of basic dental services sets the maximum amount that the ministry can pay for a specific service, and his dentist was paid that amount.

Conclusion

The panel finds the ministry decision denying the appellant's request for coverage in excess of ministry rates for dental work done on November 20, 2018 was a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision. The appellant is thus not successful in this 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 Janet Ward	
SIGNATURE OF CHAIR	DATE (YEAR/MONTH/DAY) 2019 March 15

PRINT NAME Rick Bizarro	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 March 15

PRINT NAME Kim Read	
SIGNATURE OF MEMBER	DATE (YEAR/MONTH/DAY) 2019 March 15