

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of December 19, 2018 in which the ministry determined that the appellant was not eligible to receive coverage for a full cast metal crown; pursuant to Schedule C, subsection 4.1(2)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

**PART D – RELEVANT LEGISLATION**

EAPWDR *Employment and Assistance for Persons with Disabilities Regulation, Schedule C 4.1(2)(a)*

## PART E – SUMMARY OF FACTS

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

- 1) November 14, 2018 - The ministry indicates that they had received;
  - A dated September 12, 2018 dental claim form prepared by the appellant's physician which summarized a claim submission for a full cast metal crown. The ministry notes that the form is edited by hand to combine two fee codes into one. The form includes a physician statement "Tooth 46 cracked and very bite sensitive. Crown indicated as definitive restoration. Cracks located M, D, B, L".
  - X-Ray of teeth
  - Letter returned to insurance provider by physician with edits made October 11, 2018. Original letter, dated October 4, 2018 was sent to the physician by the insurance provider to request further information with regards to the request for coverage of the crown. Physician responds via handwritten comments. He provides a list of missing teeth and indicates that you do not have a dental prosthetic. Physician states "Due to nature of multiple fractures a composite/amalgam restoration would render the remaining tooth structure weak, necessitates a crown."
  - October 23, 2018 - Insurance provider Predetermination Summary Summarizes the denial of coverage for the requested crown
  - October 23, 2018 – Insurance Provider Denial Letter Insurance provider details the reasons for denial: Documentation does not indicate that the dental condition precludes the provision of restorative services set out under the Restorative Service section of the Ministry of Social Development and Poverty Reduction Schedule of Fee Allowances – Dentist. Further, the clinical explanation submitted does not confirm that this patient's needs cannot be met through the Basic Dental Program. Lastly, the information provided does not confirm that one of the circumstances listed above under subsection (b) exists (i.e.,) the dental condition precludes the use of a removable prosthetic; the person has a physical impairment that makes it impossible for him to place a removable prosthetic; and or the person has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic; and the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic).
  - December 5, 2018 – The appellant provides with her request for reconsideration:  
November 28, 2018 letter/questionnaire to the physician from community services  
December 3, 2018 – The completed questionnaire confirming 1) the appellant suffers from generalized anxiety, 2) due to her anxiety she is very forgetful and would lose a removable dental prosthetic, and 3) a prosthetic tooth would cause you to isolate yourself to the point of not being able to function in everyday life, and 4) the appellant is very aware and paranoid about her teeth.

### Additional Information

The appellant submitted on January 15, 2019 and before the oral hearing, additional evidence. The evidence consisted of a January 9, 2019 dated letter addressed to the appellant's physician, and prepared by Community Services. The letter prepared by Community Services was done so by way of questionnaire, and the physician confirmed specifically, that in the opinion of the physician, the nature of the appellant's condition precludes her from having a pre-fabricated, plastic restoration and/or a stainless steel restoration. The representative of the Ministry made no objection to this information being admitted as evidence. The panel found the content of the letter to be relevant and determined it to be admissible, pursuant Section 22 of the *Employment and Assistance Act*.

## PART F – REASONS FOR PANEL DECISION

The issue under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of December 19, 2018 in which the ministry determined that the appellant was not eligible to receive coverage for a full cast metal crown; pursuant to Schedule C, subsection 4.1(2)(a) of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

The relevant section of the legislation is as follows:

Employment and Assistance for Persons with Disabilities Regulation, Schedule C 4.1(2)(a) and (b)

Crown and bridgework supplement

(2) A health supplement may be paid under section 63.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the person has a dental condition that cannot be corrected through the provision of basic dental services because

(a) the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances — Dentist, and

(b) *one of the following circumstances exists:*

(i) the dental condition precludes the use of a removable prosthetic;

(ii) the person has a physical impairment that makes it impossible for him or her to place a removable prosthetic;

(iii) the person has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic;

(iv) *the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.*

### Panel Decision

The ministry's position, as set out in the reconsideration decision, is that the appellant is not eligible for full coverage of a full cast metal crown because she did not meet the eligibility requirements set out by the EAPWDR, Schedule C section 4.1(2)(a). Specifically, the ministry accepted that the appellant met section 4.1(2)(b), where it was established that she had a mental condition that made it impossible for her to assume responsibility for a removable prosthetic. However, the ministry contends that the appellant had not established section 4.1(2)(a), of Schedule C, where the dental condition precludes the provision of "pre-fabricated" plastic restorations and or stainless-steel restorations.

The appellant's position, submitted at the hearing, was that admittedly, the dental condition information put forward by the physician had not clarified the preclusion requirement of section 4.1(2)(a), of Schedule C of the EAPWDR. The appellant's position was that she does meet the requirements, and with the admission of the physician's letter, dated January 9, 2019, the preclusion requirements are clearly established.

As outlined, Schedule C 4.1(2)(a) and (b) of Employment and Assistance for Persons with Disabilities Regulation 4.1(2) A health supplement may be paid under section 63.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the person has a dental condition that cannot be corrected through the provision of basic dental services because (a) the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances — Dentist, and (b) *one of the following*

circumstances exists: (iv) the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.

The panel finds that the evidence establishes that the appellant did provide a dated January 9, 2019 physician letter prior to the hearing which establishes the said preclusion requirement; specifically, the dental condition precludes the provision of "pre-fabricated" plastic restorations and or stainless-steel restorations.

In deliberations, the panel considered that the admissibility of the preclusion information submitted by the appellant was not objected by the ministry. The panel considered that the ministry, at the hearing, had explained that the preclusion requirement information was unclear at the time the decision was made, but not absent. Therefore, the panel finds that the clarifying information submitted does support the information that was before the reconsideration officer at the time the decision was made.

Accordingly, the panel finds that the decision of the ministry to deny full coverage of the full metal crown, unreasonably supported by the evidence. Therefore, the panel rescinds the ministry's decision pursuant to section 24(1)(a) and section 24(2)(b) of the *Employment and Assistance Act*. The appellant therefore is successful in her 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

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/03/18

PRINT NAME

Signed on behalf of: Susan Johnson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/03/18

PRINT NAME

Kulwant Bal

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/03/18