

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated April 10, 2019, which denied the appellant's request for coverage of IV sedation [fee code 92442 - 2 units] provided on September 26, 2018, because this service is not set out in the ministry's Schedule of Fee Allowances - Dentist or Emergency Dental-Dentist.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR) sections 63 and 64, and Schedule C, sections 1, 4 and 5.

Schedules of Fee Allowances – Dentist and Emergency Dental-Dentist

PART E – SUMMARY OF FACTS

On September 26, 2018 the appellant had several teeth on her lower arch removed by a dentist.

The dentist submitted a claim for the extractions to Pacific Blue Cross (PBC) on October 2, 2018, which was paid on October 17, 2018. He did not submit a claim for the IV Sedation [fee code 92442 - Parenteral Conscious Sedation - Two Units] received during the extractions until February 12, 2019. The amount charged for that service was \$275. The claim was rejected because it was not a covered benefit under the appellant's plan.

On September 28, 2018 the ministry received a document from the dentist office, submitted by the appellant. It set out the date of the surgery as September 26, 2018, the estimated cost of the surgery as \$275, and instructions to the appellant on how to prepare for the surgery. Someone wrote by hand "ministry doesn't cover the IV sedation of \$275.00" on this document.

On September 28, 2018 a ministry worker wrote an email to PBC noting that the appellant had been denied coverage for IV Sedation for dental work.

On October 1, 2018 PBC responded, noting that there was no record of a claim or pre-authorization claim to PBC, and if denied, the appellant could proceed to reconsideration if she wished.

On October 2, 2018 the ministry worker entered a note in the appellant's electronic records indicating that she called her and recommended she ask her dentist to submit a pre-authorization claim to PBC, and, if denied, she could proceed to reconsideration if she wished.

On October 11, 2018 the appellant contacted the ministry to report that the dentist was not able to provide a letter. The dental office informed her they did not put a claim through as they knew she would not be eligible. She was advised that the ministry would require a denial letter in order for a reconsideration to proceed.

On October 19, 2018 the appellant submitted a letter from her dentist stating that the claim was not put through because she did not qualify. This document was not scanned into the Integrated Case Management system.

On March 26 2019 the appellant submitted an invoice from her dental office indicating that PBC would not provide coverage for the sedation provided during the extractions to her lower arch. An excerpt from a document received by the appellant's dental office indicated that the service was provided on September 26, 2018, the fee code was 92442, and the amount charged was \$275. PBC denied coverage, stating: "We are unable to provide reimbursement for this expense. It is not a covered benefit under your plan."

On March 28, 2019 the ministry prepared a reconsideration package for the appellant. She returned the complete Request for Reconsideration on the same day. The appellant provided the following information in section 3 of the Request for Reconsideration form:

"I need this money. I have three children. This cost cut into my grocery, bills, portion. For my rent gets sent directly to the homeowner. With the rising costs of rental and food. It's really hard to even budget with the tiny amount provided. When I had to pay I went to food banks and any other available help."

- With her request for reconsideration the appellant submitted an Account Statement dated September 26, 2018 completed by the dental office. The statement indicates that the appellant paid \$275 by debit card for a code 92442 IV sedation on September 26, 2018.
- She attached documents previously submitted including the pre-surgery instructions by the dental office and PBC's denial of coverage of sedation.

In her Notice of Appeal dated April 16, 2019 the appellant wrote: "I was denied IV sedation for multiple teeth extractions which were covered for a person with disability status."

Upon confirming that the appellant had been notified within the prescribed time line the hearing proceeded in her absence in accordance with section 86(b) of the Employment and Assistance Regulation.

At the hearing the ministry submitted an extract of the applicable legislation: Schedule C section 1 definitions of "basic dental service", section 4, and section 5. The ministry clarified that at reconsideration it had used an outdated template and as a result had written "April 1, 2010" instead of "September 1, 2017" as effective date for the Schedule of Fee Allowances - Dentist as well as the Schedule Fee Allowances Emergency Dental - Dentist. The ministry commented that the wording of the applicable sections of the Schedules effective April 1, 2010 was identical with the ones effective September 1, 2017. The reconsideration officer had given her assurance that the template would be updated immediately.

The ministry noted that the reference to eligibility to receive a dental supplement should read "section 63 and 64" instead of "section 64 and 65" - it was a typo.

After these explanations the ministry presented the reconsideration decision and added that the appellant is over 19 years of age.

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is whether the ministry reconsideration decision which denied the appellant's request for coverage of IV sedation [fee code 92442 - 2 units] provided on September 26, 2018 because this service is not set out in the ministry's Schedule of Fee Allowances - Dentist or Emergency Dental - Dentist was a reasonable application of the legislation or reasonably supported by the evidence.

Dental supplements

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,

...

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,

...

Schedule C**Health Supplements****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,

...

"dentist" means a dentist registered with the College of Dental Surgeons of British Columbia continued under the *Health Professions Act*;

"emergency dental service" means a dental service necessary for the immediate

relief of pain that,

(a) if provided by a dentist,

(i) is set out in the Schedule of Fee Allowances — Emergency Dental — 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 the person receiving the service, ...

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)...

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.

Schedule of Fee Allowances – Dentist / Schedule of Fee Allowances - Emergency Dental - Dentist

Anesthesia

Note: When delivering sedation and general anaesthetic, dentists must meet the regulatory Requirements set out by the College of Dental Surgeons of BC.

General Anaesthetic and Intravenous sedation (in office)

FEE NO.	FEE DESCRIPTION	FEE AMOUNT(\$)	ADULT
92215	per hour or portion thereof		50.57

Note: GA or IV sedation (in office) will only be considered for coverage for children under 19 years of age where necessary for the safe performance of dental treatment; and children and adults with a severe mental or physical disability that prevents a dentist from providing necessary treatment without the administration of a GA or sedation.

...

New

Conscious sedation

Note: Conscious sedation is only covered for children under 19 years of age, and only when necessary for the safe performance of dental treatment or when the dentist is prevented from providing necessary treatment without the administration of a GA or sedation.

Fee items 92411 to 92418 and 92431 to 92438 ...

Appellant's position

The appellant argues that as Person with Disability she is eligible for coverage for IV sedation. The expense of paying for the sedation left her with insufficient funds to pay for groceries and bills.

Ministry's position

The ministry determined that eligibility for basic dental services is set out under the EAPWDR, Schedule C, sections 1 and 4. Sedation is a basic dental service. Schedule C, section 1 defines a basic dental service as a dental service that

(a) if provided by a dentist,

(i) is set out in the Schedule of Fee Allowances - Dentist that is effective April 1, 2010 and is on file with the office of the deputy minister, and (B.C. Reg. 65/2010)

(ii) is provided at the rate set out for the service in that Schedule.

Fee Code 92442 is not set out in the ministry's Schedule of Fee Allowances-Dentist and the ministry is not authorized to provide coverage for services that are not set out in that Schedule.

The ministry determined further that appellant is also eligible to receive Emergency Dental Services under the EAPWDR. Section 64 and Schedule C, sections 1 and 5. Schedule C section 1 defines an emergency dental service as one that is necessary for the immediate relief of pain and

(a) if provided by a dentist,

(i) is set out in the Schedule of Fee-Allowances-Emergency Dental-Dentist, that is effective April 1, 2010 and is on file with the office of the deputy minister, and (B.C. Re. 65/2010)

(ii) is provided at the rate set out in that Schedule ...

Fee Code 92442 is not set out in the ministry's Schedule of Fee Allowances-Emergency Dental-Dentist and the ministry is not authorized to provide coverage for services that are not set out in that Schedule.

The ministry noted that the parameters for the provision of sedation are set out in the Schedule of Fee Allowances-Dentist. Coverage for Intravenous Sedation (in office) is provided under fee code 92215 which is described in the BC Dental Fee Guide as general anaesthesia involving loss of consciousness.

Eligibility requirements for funding for this service are defined in the ministry's Schedule of Fee Allowances as follows: "GA or IV sedation (in office) will only be considered for coverage for children

under 19 years of age where necessary for the safe performance of dental treatment, and children and adults with a severe mental or physical disability that prevents a dentist from providing necessary treatment without the administration of a GA or sedation.”

The ministry noted that evidence was not provided to establish or suggest that the appellant has a severe mental or physical disability that prevents a dentist from providing necessary dental treatment without the administration of a GA or IV sedation. The ministry noted that even if this were the case, the appellant did not receive sedation on September 26, 2018 under fee code 92215.

The ministry noted that while the Schedule of Fee Allowances-Dentist includes coverage for conscious sedation (fee codes 92411 to 92418 and 92431 to 92438) this type of sedation is only covered for children under 19 years of age.

Panel Decision

While the appellant argues that she should be eligible for coverage for IV sedation due to her PWD designation the panel finds that even though the appellant is eligible for basic dental services and emergency dental services pursuant to section 63 and 64 and Schedule C sections 1, 4 and 5, the service provided (fee code 92442) is not listed among the services covered in the Schedule of Fee Allowances Dentist or the Schedule of Fee Allowances Emergency Dental - Dentist. The panel finds that the ministry reasonably concluded that the appellant was not eligible for Parenteral Conscious Sedation - 2 Units (Fee Code 92442) under sections 63 and 64 and Schedule C sections 1, 4 and 5 of the EAPWDR.

The panel notes that the ministry was correct in their analysis that coverage for GA and Intravenous Sedation (in office) under fee code 92215 is only considered for coverage for children under 19 years of age where necessary for the safe performance of dental treatment, and children and adults with a severe mental or physical disability that prevents a dentist from providing necessary treatment without the administration of a GA or sedation. As the appellant is over 19 years old, and as there is no evidence that she has a severe mental or physical disability that prevents a dentist from providing necessary dental treatment without the administration of a GA or IV sedation, the appellant is not eligible to receive sedation under fee code 92215. Even if she were eligible to receive sedation under this code she received sedation under code 92442 which is not set out in the ministry's fee allowance schedules.

The panel notes further that the ministry was correct when it noted that conscious sedation under fee codes 92411 to 92418 and 92431 to 92438 is only covered for children under 19 years of age where necessary for the safe performance of dental treatment or when the dentist is prevented from providing necessary treatment without the administration of a GA or sedation. Even if the appellant were under 19 years of age she could not have been considered eligible as she did not receive sedation under fee codes 92411 to 92418 and 92431 to 92438.

Conclusion

The panel finds that the ministry's determination that the appellant is not eligible for coverage of dental fees for Parenteral Conscious Sedation - 2 Units [Fee Code 92442] is a reasonable application of the legislation in the appellant's circumstances. The ministry's reconsideration decision is confirmed and the appellant is not successful on 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 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	
PRINTNAME Inge Morrissey	
	DATE(YEAR/MONTH/DAY) 2019/05/08

PRINTNAME Robert Fenske	
SIGNATURE OF MEMBER	DATE(YEAR/MONTH/DAY) 2019/05/08
PRINTNAME Charles Schellink	
SIGNATURE OF MEMBER	DATE(YEAR/MONTH/DAY) 2019/05/10