

APPEAL NUMBER

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry's reconsideration decision dated 22nd March 2019, which determined that the appellant's request for coverage of a dental treatment for an "Unclassified Treatment" under Fee Code 91213 was denied as the said Fee Code was not set out in the Schedule of Fee Allowances – Dentist. The Ministry held that the Ministry was not authorized to provide coverage for services that are not set out in the Schedule of Fee Allowances effective 1st April 2010.

PART D – RELEVANT LEGISLATION

- Employment Assistance for Persons with Disabilities Regulation, Section 62 and 63 (EAPWDR)
- Employment and Assistance for Persons with Disability Regulations (EAPWDR), Schedule C, Section 1 and 4
- Schedule of Fee Allowances - Dentist *and* Schedule of Fee Allowances –Emergency Dental Dentist – Effective 1st September 2017

PART E – SUMMARY OF FACTS

The relevant information and evidence before the Ministry at reconsideration included the following:

- A Statement for an unclassified dental treatment provided to the appellant for \$200.00 dated 14th December 2018;
- A Dental Office Claim Reference Number 042023 dated 23rd January 2019;
- Information relating to “Dental Supplements – Dentists” in British Columbia dated 21st September 2017;
- Request for Reconsideration, which amongst other matters, sets out the following as “Reasons for Reconsideration Request”:
- The appellant’s advocate was with the appellant at his dentist’s clinic when the appellant requested, at the suggestion of the dentist, that the dental procedure be done at the hospital;
- The appellant was not informed that the extra fee for the procedure at the hospital would not be covered by his dental insurance; and
- The appellant has no money to pay for the \$200.00 bill.

In addition to the information and evidence described above, the panel received and reviewed the following additional information in the record of appeal:

- Ministry’s reconsideration decision dated 22nd March 2019, which amongst other matters, noted and stated as follows:
 - The Employment Assistance Act, Section 25, sets out that subject to the regulations, the minister may delegate to any person or category of persons any and all of the Ministry’s powers to prescribe forms, and the power to enter into an agreement under Section 21(2) or Section 2.1, unless Section 21(2.2) applies in relation to the agreement;
 - In the case of dental supplements, the Ministry’s powers, duties or functions are delegated to Pacific Blue Cross (PBC);
 - The appellant is a recipient of disability assistance and is therefore eligible for dental supplements under Section 63, 63.1, and 64 and Schedule C, Section 4, 4.1 and 5 of the Employment and Assistance for Persons with Disability Regulations;
 - The PBC Claims history of the appellant indicated that as of the date of the decision, the appellant had all of his \$1000.00 limit for basic dental services remaining (for the period beginning 1st January 2019 and ending 31st December 2020).
 - The health supplements that may be paid by the Ministry under Section 63 are those set out in Schedule C, Section 4 (*dental supplements*), which are basic dental services;
 - Section 4(1.1) specifies that the health supplements that may be paid under Section 63 are

"basic dental services", which are defined in Schedule C, Section 1 of the EAPWDR as dental service that, if provided by a dentist: (i) is set out in the Schedule of Fee Allowances-Dentist that is effective 1st April 2010 and is on file with the Office of the Deputy Minister; and (ii) is provided at the rate set out for the service in that Schedule;

- The health supplements that may be paid by the Ministry under Section 64 are those set out in Schedule C, Section 5 (*emergency dental supplements*), which are emergency dental services;
- Section 5 specifies that the health supplements that may be paid under Section 64 are *"emergency dental services"*, which are defined in Schedule C, Section 1 of the EAPWDR as emergency dental service that, if provided by a dentist: (i) is set out in the Schedule of Fee Allowances-Dentist that is effective 1st April 2010 and is on file with the Office of the Deputy Minister; and (ii) is provided at the rate set out for the service in that Schedule;
- On 25th January 2019, the Ministry received:
 - A "Statement" prepared by a dentist dated 17th December 2018, which amongst other matters, (i) summarized dental treatment provided to the appellant on 14th December 2018; (ii) indicated that the Fee Code 91213 (unclassified treatment) is not covered by PBC; and (iii) confirmed that the remaining treatments were covered in full; and
 - An "Explanation of Benefits" prepared by PBC dated 23rd January 2019 indicating that coverage was denied for Fee Code 91213 (unclassified treatment), as it not a covered benefit under the plan; and
- The appellant's request to the Ministry related to coverage for *"Unclassified Treatment/Unusual Time and Responsibility Requirement/Three Units (of time)"*, a dental treatment provided to the appellant by a dentist on 14th December 2018 for a fee of \$200.00;
- The Fee Code for the said dental treatment is stated to be 91213, which is not set out in the Schedule of Fee Allowances-Dentist;
- As a result, the Ministry is not able to or authorized to provide the coverage for Fee Code 91213 and the Ministry denied the appellant's request for coverage of a dental treatment not set out in the Schedule of Fee Allowance- Dentist (Fee Code 91213);
- Notice of Appeal filed by the appellant dated 28th March 2019, which amongst other matters, stated as follows:
 - The dental treatment was done in a hospital as a medical procedure;
 - The appellant misunderstood, as the appellant is a cognitively challenged individual on disability with severe anxiety; and
 - The appellant is requesting *"crisis grant"* to cover bill as he barely survives on PWD allowance.

Based on the foregoing, the panel makes the following findings of facts:

- The appellant is a recipient of disability assistance and is therefore eligible for dental supplements under Section 63, 63.1, and 64 and Schedule C, Section 4, 4.1 and 5 of the Employment and Assistance for Persons with Disability Regulations;
- The appellant's request to the Ministry related to coverage for "*Unclassified Treatment/Unusual Time and Responsibility Requirement/Three Units (of time)*", a dental treatment provided to the appellant by a dentist on 14th December 2018 for a fee of \$200.00;
- The Fee Code for the said dental treatment is stated to be 91213, which is not set out in the Schedule of Fee Allowances-Dentist;

PART F – REASONS FOR PANEL DECISION

The issue in this appeal is the Ministry's denial of the appellant's request for coverage of a dental treatment not set out in the Schedule of Fee Allowances – Dentist (Fee Code 91213) on the grounds that the Ministry was not authorized to provide coverage for services that are not set out in the Schedule of Fee Allowances effective 1st April 2010, was reasonably supported by evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant legislation provides:

Employment Assistance For Persons with Disabilities Regulations**Division 4 — Health Supplements****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,
- (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 under 19 years of age, 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.

Crown and bridgework supplement

63.1 The minister may provide a crown and bridgework supplement under section 4.1 of Schedule C to or for

- (a) a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the family unit who is a person with disabilities, or
- (b) a family unit, if the supplement is provided to or for a person in the family unit who
 - (i) is a continued person, and
 - (ii) was, on the person's continuation date, a person with disabilities.

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.

Orthodontic supplement

- 65** (1) Subject to subsection (2), the minister may provide orthodontic supplements to or for
- (a) a family unit in receipt of disability assistance, if the orthodontic supplements are provided to or for a person in the family unit who is
 - (i) under 19 years of age, or
 - (ii) a person with disabilities, or
 - (b) a family unit, if the orthodontic supplements are provided to or for a person in the family unit who
 - (i) is a continued person, and
 - (ii) meets any of the following criteria:
 - (A) the person is under 19 years of age;
 - (B) the person was, on the person's continuation date, a person with disabilities.
- (2) For a person referred to in subsection (1) to be eligible for orthodontic supplements, the person's family unit must have no resources available to cover the cost of the orthodontic supplements and the person must
- (a) have severe skeletal dysplasia with jaw misalignment by 2 or more standard deviations, and
 - (b) obtain prior authorization from the minister for the orthodontic supplements.

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,
- (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
- (c) if provided by a dental hygienist,
 - (i) is set out in the Schedule of Fee Allowances — Dental Hygienist 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;

"dental hygienist" means a dental hygienist registered with the College of Dental Hygienists established under the *Health Professions Act*;

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

"denturist" means a denturist registered with the College of Denturists of British Columbia established 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, and

(b) if provided by a denturist,

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

(c) Repealed. [B.C. Reg. 163/2005, s. (b).]

(2) Dentures may be provided as a basic dental service only to a person

- (a) who has never worn dentures, or
- (b) whose dentures are more than 5 years old.

(3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

- (a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,
- (b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or
- (c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.

(4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.

(5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under

- (a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
- (b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under

- (a) fee numbers 51101 and 51102 in the Schedule of Fee Allowances — Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or
- (b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.

Crown and bridgework supplement

4.1 (1) In this section, "**crown and bridgework**" means a dental service

- (a) that is provided by a dentist,
- (b) that is set out in the Schedule of Fee Allowances — Crown and Bridgework, that is effective April 1, 2010 and is published on the website of the ministry of the minister,
- (c) that is provided at the rate set out for the service in that Schedule, and
- (d) for which a person has received the pre-authorization of the minister.

(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.

(3) The minister must also be satisfied that a health supplement for crown and bridgework will be adequate to correct the dental condition.

(4) A health supplement for crown and bridgework may not be provided in respect of the same tooth more than once in any period of 60 calendar months.

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.

MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION Schedule of Fee Allowances - Crown and Bridgework

Effective 1st April 2010

CROWNS

Note: Limited to one per tooth in a five-year period. Only full cast metal crowns will be considered on tooth numbers 6, 7 and 8.

Fee No 27301 Crown, Full Cast Metal –Fee Amount: *539.90

Fee No 27211 Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base –Fee Amount: *624.20

Fee No 27213 Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base, with Porcelain Margin –Fee Amount: *624.20

BRIDGES

Note: Limited to one per tooth in a five-year period. Only full cast metal retainers and pontics will be considered on tooth numbers 6, 7 and 8.

Retainers

Fee No 67211 Porcelain/Ceramic/Polymer Glass, Fused to Metal Base -Fee Amount: *623.30

Fee No 67301 Full, Metal Cast -Fee Amount: *562.81

Pontics:

Fee No 62101 Cast Metal-Fee Amount: *313.75

Fee No 62501 Porcelain/Ceramic/Polymer Glass, Fused to Metal Base -Fee Amount: *372.75

CORES

Note: Limited to one per tooth in a five-year period.

Fee No 21301 Non-Bonded Amalgam Core, in conjunction with Crown -Fee Amount: *80.70

Fee No 21302 Bonded Amalgam Core, in conjunction with Crown -Fee Amount: *90.41

Fee No 23601 Non-Bonded Composite Core, in Conjunction with Crown -Fee Amount: *90.56

Fee No 23602 Bonded Composite Core, in Conjunction with Crown -Fee Amount: *90.56

*Denotes Lab Fee(s)

The other relevant legislation includes the "Schedule of Fee Allowances – Emergency Dental – Dentist – Effective September 1, 2017", which is included on pages 53 to 63 in the Record of Appeal.

Panel Decision

The panel has noted the following two non-material discrepancies in the reconsideration decision and the Record of Appeal:

1. In the reconsideration decision, the Ministry has made reference to *Schedule of Fee Allowances - Dentist* and *Schedule of Fee Allowances –Emergency Dental Dentist*, both being effective April 1, 2010.

The panel has read the current versions of both the said Schedules effective 1st September 2017, which are also included on pages 17 to 67 of the Record of Appeal, and has satisfied itself that the relevant portions of the current applicable legislation are identical to the references highlighted in the reconsideration decision;

2. In the reconsideration decision, the Ministry has included in "Appendix B- Applicable Legislation" on page 14 of the Record of Appeal a copy of *Schedule C* definitions of the phrase "basic dental service" and the phrase "emergency dental service" in of EAPWDR.

The panel has read the relevant portion of the current applicable legislation, and has satisfied itself that the relevant current definitions are identical to the references highlighted in "Appendix B- Applicable Legislation" in the Ministry's Record of Appeal;

Therefore, the panel is satisfied that the said two discrepancies do not affect the Ministry's findings in the reconsideration decision.

The panel further notes that although in the Notice of Appeal filed by the appellant on 28th March 2019, the appellant is requesting a "crisis grant" to cover the bill of \$200.00, his original application to the Ministry and the Ministry's reconsideration decision relate to coverage for "*Unclassified Treatment/Unusual Time and Responsibility Requirement/Three Units (of time)*", a dental treatment provided to the appellant by a dentist on 14th December 2018 for a fee of \$200.00. Therefore, the panel is not considering the matter as a reconsideration decision for a "crisis grant" and makes no finding as to whether the appellant would be eligible for one were he to apply.

The panel considered the following applicable legislation and facts to the circumstances of the appellant:

A dentist provided certain unclassified dental treatment to the appellant on 14th December 2018 at a hospital and billed \$200.00 to the appellant for such a treatment under Fee Code 91213. The appellant argued that he requested the treatment at a hospital at the suggestion of the dentist, and that the appellant did not know that such treatment would not be covered by his dental insurance.

The Ministry denied reimbursement of \$200.00 to the appellant, as the dental service provided by the dentist to the appellant at a hospital under Fee Code 91213 is not set out in the Schedule of Fee Allowances –Dentist, and the Ministry is therefore not authorized to provide coverage for such service.

The Employment Assistance Act, Section 25, sets out that subject to the regulations, the minister may delegate to any person or category of persons any and all of the Ministry's powers to prescribe forms, and the power to enter into an agreement under Section 21(2) or Section 2.1, unless Section 21(2.2) applies in relation to the agreement. In the case of dental supplements, the Ministry's powers, duties or functions are delegated to Pacific Blue Cross (PBC).

The appellant is a recipient of disability assistance and is therefore eligible for dental supplements under Section 63, 63.1, and 64 and Schedule C, Section 4, 4.1 and 5 of the Employment and Assistance for Persons with Disability Regulations;

On 25th January 2019, the appellant received an "Explanation of Benefits" prepared by PBC dated 23rd January 2019 indicating that coverage was denied for Fee Code 91213 (unclassified treatment), as it not a covered benefit under the plan;

Dental health supplements that may be paid by the Ministry under Section 63 are those set out in Schedule C, Section 4, which are *basic dental service* defined in Schedule C, Section 1 of the EAPWDR as *dental service* that, if provided by a dentist: (i) is set out in the Schedule of Fee Allowances-Dentist that is effective 1st April 2017 and is on file with the Office of the Deputy Minister; and (ii) is provided at the rate set out for the service in that Schedule.

The panel notes that the unclassified treatment under Fee Code 91213 is not covered as "*basic dental service*" described in Schedule of Fee Allowances -Dentist.

The other types of dental health supplements that may be paid by the Ministry under Section 64 are those set out in Schedule C, Section 5 (emergency dental supplements), which are *emergency dental services*. Section 5, which are defined in Schedule C, Section 1 of the EAPWDR as *emergency dental service* that, if provided by a dentist: (i) is set out in the Schedule of Fee Allowances- Emergency Dental Dentist that is effective 1st April 2017 and is on file with the Office of the Deputy Minister; and (ii) is provided at the rate set out for the service in that Schedule.

The panel notes that the unclassified treatment under Fee Code 91213 is also not covered as "*emergency dental service*" under Schedule of Fee Allowances- Emergency Dental Dentist.

For the reasons noted by the panel above, and having regard to the findings of facts made by the panel in Section E above, the panel finds the Ministry's decision was reasonably supported by evidence and a reasonable

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application of the applicable enactment in the circumstances of the appellant. Therefore, the panel confirms the Ministry's reconsideration decision.

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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

TAJDIN MITHA

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/05/13

PRINT NAME

ADAM SHEE

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/13

PRINT NAME

JULIE IUVANCIGH

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/05/13