

**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 April 23, 2019 which denied the Appellant's request for crowns for two of her teeth because the requested coverage was for services which are not set out in the Ministry's "Schedule of Fee Allowances - Crown and Bridgework" and are therefore not services that may be provided under Sections 4 and 4.1 of Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR).

In addition, the Ministry determined that the Appellant had received pre-approved coverage for a root canal for one of her teeth up to the maximum Ministry rate as set out in the "Schedule of Fee Allowances – Dentist", but that no decision had been reached by Pacific Blue Cross (PBC), the Ministry's delegated agent under EAPWDR Section 25, regarding her eligibility for the prescribed treatment of that tooth.

Finally, the Ministry determined that the information provided does not establish a direct and imminent life threatening health need under Section 69 of the EAPWDR and that, in any event, dental supplements may not be provided under this section.

**PART D – RELEVANT LEGISLATION**

*Employment and Assistance for Persons with Disabilities Act (EAPWDA) Sections 16 and 25*

EAPWDR, Sections 63, 63.1, 64 and 69 and Schedule C, Sections 1, 2(1)(a), 2(1)(f), 3, 3.1 – 3.12, 4.1 and 5

Schedule of Fee Allowances – Crown and Bridgework (Part F), Effective April 1, 2010

**PART E – SUMMARY OF FACTS**

The Appellant is a sole recipient of disability assistance.

Through an arrangement with PBC, the Ministry provides recipients with basic dental service and emergency dental service as defined in EAPWDR Schedule C, Section 1, and crown and bridgework as defined in EAPWDR Schedule C, Section 4.1(1).

The evidence before the Ministry at reconsideration included:

1. The Appellant's Request for Reconsideration (RFR) dated Mar 20, 2019 which included:

- An undated, one page attachment in which the Appellant asked for an extension of the time limit on submitting her RFR because she had an appointment with an *"orthodontic or specialist in root canals"* on March 26, 2019, that *"for two months (she has been) in pain ... (and she has) been experiencing difficulties in eating"*, that she has discovered that *"the (denial letter) from PBC ... (does not indicate that she needs) the root canals to be redone ... and (that she needs) emergency assistance"* and that sections 1 and 2 of the RFR form *"do not contain the information about pain and suffering that (she) is going through"*;
- A series of emails between the Appellant to the Ministry dated March 19, 2019, March 20, 2019 and April 3, 2019 in which:
  - The Appellant requests an extension of the deadline for submitting an RFR because the information submitted by PBC does not include information about inflamed root canals on two of her teeth;
  - The Ministry responds by stating *"You still need to submit the signed/dated RFR (Section 4)"*;
  - The Appellant replies to say that the information contained in sections 1 and 2 of the RFR *"is irrelevant to (her) situation"* and that she has been in pain for more than 2 months;
  - The Ministry responds by stating *"If you are requesting a reconsideration regarding dental work not being covered, then this is your chance to explain why you think the decision is wrong. You can put in Section 3 what you wrote in (the email summarized above)"*;
  - The Appellant replies to say that she does not think she can pursue the RFR because her advocate will not be available for 3 weeks, she had not received all of the x-rays on her teeth, that she has been *"experiencing difficulties (in) obtaining information from dentists"*, and that she had experienced a severe medical condition which had caused high fever and pain for 3 days; and,
  - The Appellant sends a follow-up email stating that she has contacted the College of Dental Surgeons of BC and the BC Dental Association (BCDA) and been told that *"there (are) no dentists who provide emergency dental assistance to clients of the Ministry"*, and asking what dental work is available to Ministry clients and why does the Ministry not cover dental work for its clients *"that is necessary and available to the public"*; and
- A copy of a PBC pre-determination form dated March 2, 2019 indicating a "Plan Approved" amount of \$0 for procedure 27211 for tooth number 36 and tooth number 37, with the comment *"This service is only available on permanent anterior and bicuspid teeth"*.

2. Two x-rays of the Appellant's teeth dated February 5, 2019;

3. A crown and bridge profile sheet in the name of the Appellant referencing an x-ray of the Appellant's teeth dated February 5, 2019, including the hand written comment "*Need more info – 5 (restoration) on 36 Jan 11, 2019 – why crown?*";
4. A plan benefit status summary in the name of the Appellant dated February 8, 2019 showing the amount of the maximum benefit for teeth cleaning services available to the Appellant for the benefit period ending on December 31, 2019;
5. An undated copy of the Canadian Dental Association/Canadian Life and Health Insurance Association Inc. Standard Claim Form prepared by the Appellant's dentist on behalf of the Appellant indicating a fee of \$816 for each of the Appellant's teeth #36 and #37 for procedure code 27201 and a separate fee of \$330 for each of the Appellant's teeth #36 and #37 for procedure code 99111;
6. A copy of a PBC pre-determination form dated February 12, 2019 indicating a "Plan Approved" amount of \$0 for procedure 27201 for tooth number 36 and tooth number 37, with the comments "*We are unable to provide reimbursement for this expense. It is not a covered benefit under your plan. This predetermination is missing information. Please refer to the form sent under separate cover for additional details... Please also refer to the Ministry Dental Supplement Fee Guide Preamble for their maximum entitlements*";
7. A copy of a form letter from PBC to the Appellant's dentist dated February 12, 2019 stating that PBC requires a list of all teeth missing, the date and condition of any existing prostheses and teeth involved, the length of time teeth have been missing if there was no existing prostheses, an explanation as to the necessity for the crown requests (why treatment needs cannot be met through the basic dental program), relevant information regarding the client's medical condition(s) that would support the need for a crown, and indicating that fee code 27201 is not a Ministry fee code, with a request that the dentist review the current Ministry fee schedule; and,
8. An email from the Appellant to the Ministry dated February 22, 2019 stating that the Appellant's dentist advised her that the root canals on two of her teeth (36 and 37) should be redone due to inflammation but PBC had rejected coverage for the work required. The Appellant also states that she was forwarding PBC's rejection letter to the Ministry with a request that the Ministry reconsider the decision.

### ***Additional Information***

In her Notice of Appeal (NOA) dated May 10, 2019 the Appellant included a 7 page attachment stating that she had been "*coerced*" into agreeing to have her teeth pulled out rather than receive emergency dental assistance, she had been denied "*information, assistance and the opportunity to file (a) prompt, adequate and effective ... (RFR)*", that the Ministry's Reconsideration Decision "*misrepresents (her) need (for) emergency and basic dental services*" and "*contains deceptive reasons for the denial*", that "*there is a significant gap between the emergency and basic dental services that are available to the public and the Ministry's clients*", and that the "*(maximum) amount (for) ... basic dental coverage for the Ministry's clients has not been increased for such a long ... time that there is a very significant gap between the (maximum) amount (for) basic dental coverage and the cost of dental procedures*".

On Jul 22, 2019, the Appellant submitted a 5 page written submission which explained why she had required several extensions to the deadline for submitting a written submission, and which contained the following information and assertions relating to the Ministry's Reconsideration Decision and related dental care issues:

1. The Appellant considers that she has *"suffered serious harm to her health because health care services and oral health services have been provided to (her) as a client of the Ministry in bad faith and in contradiction with the requirements that are set out in the Canada Health Act..."*
2. There are a range of dental procedures for the prevention and treatment of oral disease that are available to the general public that are not in the "Schedule of Fee Allowances – Dentist" and therefore not available to persons with disabilities (PWD);
3. The cost of the dental services that are listed in the "Schedule of Fee Allowances – Dentist" are significantly lower than the cost of those services as set out in the BCDA *"fee guide"* and, as a result, dentists are not interested in treating Ministry clients;
4. As a victim of crime she suffered injuries to her health that affected her oral health and she has been denied adequate diagnostic, preventative and restoration treatments that are available to the general public, and as a result she has been *"misdiagnosed, left living in pain and still not provided with any dental assistance or dental treatment"*;
5. She has been requested to pay significantly more than the general public for endodontic treatment and the quality of services has been significantly lower than what the general public would receive;
6. Upon attempting to book an appointment with her dentist for teeth cleaning on February 5, 2019 *"(she) was advised that (she) needed to fix the broken tooth ... first because there is not enough money in the insurance provided by PBC for the Ministry clients; and,*
7. Based on an interpretation of x-rays taken during the Appellant's March 26, 2019 appointment with her dentist there was a discrepancy between the information that was provided to the Appellant verbally during that appointment and the information stated in a March 27, 2019 letter from the dentist to another dentist regarding the first dentist's diagnosis and recommendation for treatment for the two teeth in question.

#### ***Admissibility of Additional Information***

Section 22(4) of the Employment and Assistance Act (EAA) provides that panels may admit as evidence (i.e. take into account in making its decision) the information and records that were before the Ministry when the decision being appealed was made and "oral and written testimony in support of the information and records" before the Ministry when the decision being appealed was made – i.e. information that substantiates or corroborates the information that was before the Ministry at reconsideration. Because a panel can accept oral and written testimony in support of the information and records before the Ministry when the decision was made, there is limited discretion for a panel to admit new evidence. Accordingly, instead of asking whether the decision under appeal was reasonable at the time it was made, panels must determine whether the decision under appeal was reasonable based on all admissible evidence, including any new evidence admitted under EAPWDA Section 22(4).

The Panel considered the written information in the NOA, and the additional written information submitted in the July 22, 2019 written submission to be argument.

The Ministry did not object to the admittance of any of the new information.

**PART F – REASONS FOR PANEL DECISION**

The issue under appeal is whether the Ministry's Reconsideration Decision dated April 23, 2019, which denied the Appellant's request for crowns because the requested coverage was for services which are not set out in the Ministry's schedule of fee allowances for crown and bridgework, because the Appellant was not eligible for a crown and bridge supplement, and because the crowns were not required to meet a life-threatening need, was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the Appellant.

The relevant legislation is as follows:

**EAPWDA****Reconsideration and appeal rights**

**16(1)** ... a person may request the minister to reconsider ... :

(a) a decision that results in a refusal to provide ... a supplement to or for someone in the person's family unit; ...

(d) a decision in respect of the amount of a supplement provided to or for someone in the person's family unit if that amount is less than the lesser of

(i) the maximum amount of the supplement under the regulations, and

(ii) the cost of the least expensive and appropriate manner of providing the supplement ...

(3) ... a person who is dissatisfied with the outcome of a request for a reconsideration under subsection

(1) (a) to (d) may appeal the decision that is the outcome of the request to the tribunal ...

**Delegation of minister's powers and duties**

**25(1)** Subject to the regulations, the minister may delegate to any person or category of persons any or all of the minister's powers, duties or functions under this Act ...

**EAPWDR****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, ...

**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, ...

### 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, ...

### Health supplement for persons facing direct and imminent life threatening health need

**69** The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [general health supplements] and 3 [medical equipment and devices] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that

(a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,

(b) the health supplement is necessary to meet that need,

(c) a person in the family unit is eligible to receive premium assistance under the *Medicare Protection Act* ...

### 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 April 1, 2010 and is on file with the office of the deputy minister,

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

"**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 April 1, 2010 and is on file with the office of the deputy minister, and

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

#### General health supplements

**2(1)** The following are the health supplements that may be paid for by the minister if provided to a family unit that is eligible under section 62 [*general health supplements*] of this regulation:

(a) medical or surgical supplies that are, at the minister's discretion, either disposable or reusable, if the minister is satisfied that all of the following requirements are met:

(i) the supplies are required for one of the following purposes:

- (A) wound care;
- (B) ongoing bowel care required due to loss of muscle function;
- (C) catheterization;
- (D) incontinence;
- (E) skin parasite care;
- (F) limb circulation care;

(ii) the supplies are

- (A) prescribed by a medical practitioner or nurse practitioner,
- (B) the least expensive supplies appropriate for the purpose, and
- (C) necessary to avoid an imminent and substantial danger to health;

(iii) there are no resources available to the family unit to pay the cost of or obtain the supplies

... (f) the least expensive appropriate mode of transportation to or from

- (i) an office, in the local area, of a medical practitioner or nurse practitioner,
- (ii) the office of the nearest available specialist in a field of medicine or surgery if the person has been referred to a specialist in that field by a local medical practitioner or nurse practitioner,
- (iii) the nearest suitable general hospital or rehabilitation hospital, as those facilities are defined in section 1.1 of the Hospital Insurance Act Regulations, or
- (iv) the nearest suitable hospital as defined in paragraph (e) of the definition of "hospital" in section 1 of the *Hospital Insurance Act* ...

**Medical equipment and devices**

**3(1)** ... the medical equipment and devices described in sections 3.1 to 3.12 of this Schedule are the health supplements that may be provided by the minister ...

**Medical equipment and devices — canes, crutches and walkers**

**3.1(1)** ... the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain basic mobility:

- (a) a cane;
- (b) a crutch;
- (c) a walker;
- (d) an accessory to a cane, a crutch or a walker ...

**Medical equipment and devices – wheelchairs ...**

**3.2(2)** ... the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain basic mobility:

- (a) a wheelchair;
- (b) an upgraded component of a wheelchair;
- (c) an accessory attached to a wheelchair ...

**Medical equipment and devices – wheelchair seating systems**

**3.3(1)** The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to achieve or maintain a person's positioning in a wheelchair:

- (a) a wheelchair seating system;
- (b) an accessory to a wheelchair seating system ...

**Medical equipment and devices – scooters**

**3.4(2)** ... the following items are health supplements for the purposes of section 3 of this Schedule if all of the requirements set out in subsection (3) of this section are met:

- (a) a scooter;
- (b) an upgraded component of a scooter;
- (c) an accessory attached to a scooter ...

**Medical equipment and devices – toileting, transfers and positioning aids ...**

**3.5(1)** The following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate toileting or transfers of a person or to achieve or maintain a person's positioning:

- (a) a grab bar in a bathroom;
- (b) a bath or shower seat;
- (c) a bath transfer bench with hand held shower;
- (d) a tub slide;
- (e) a bath lift;
- (f) a bed pan or urinal;
- (g) a raised toilet seat;
- (h) a toilet safety frame;
- (i) a floor-to-ceiling pole in a bathroom or bedroom;
- (j) a portable commode chair;



- (k) a standing frame for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;
- (l) a positioning chair for a person for whom a wheelchair is medically essential to achieve or maintain basic mobility;
- (m) a transfer aid for a person for whom the transfer aid is medically essential to transfer from one position to another ...

**Medical equipment and devices — hospital bed**

**3.6(1)** ...the following items are health supplements for the purposes of section 3 of this Schedule if the minister is satisfied that the item is medically essential to facilitate transfers of a person to and from bed or to adjust or maintain a person's positioning in bed:

- (a) a hospital bed;
- (b) an upgraded component of a hospital bed;
- (c) an accessory attached to a hospital bed;
- (d) a positioning item on a hospital bed ...

**Medical equipment and devices — pressure relief mattresses**

**3.7(1)** A pressure relief mattress is a health supplement for the purposes of section 3 of this Schedule ...

**Medical equipment and devices — floor or ceiling lift devices ...**

**3.8(2)** A floor or ceiling lift device is a health supplement for the purposes of section 3 of this Schedule ...

**Medical equipment and devices — breathing devices**

**3.9(1)** ... the following items are health supplements for the purposes of section 3 of this Schedule: ...

- (a) ... (i) a positive airway pressure device,
  - (ii) an accessory that is required to operate a positive airway pressure device, or
  - (iii) a supply that is required to operate a positive airway pressure device ...
- (b) ... (i) an apnea monitor,
  - (ii) an accessory that is required to operate an apnea monitor, or
  - (iii) a supply that is required to operate an apnea monitor;
- (c) ... (i) a suction unit,
  - (ii) an accessory that is required to operate a suction unit, or
  - (iii) a supply that is required to operate a suction unit;
- (d) ... (i) a percussor,
  - (ii) an accessory that is required to operate a percussor, or
  - (iii) a supply that is required to operate a percussor;

- (e) ... (i) a nebulizer,
  - (ii) an accessory that is required to operate a nebulizer, or
  - (iii) a supply that is required to operate a nebulizer;
- (f) ... (i) a medical humidifier,
  - (ii) an accessory that is required to operate a medical humidifier, or
  - (iii) a supply that is required to operate a medical humidifier;
- (g) ... (i) an inhaler accessory device,
  - (ii) an accessory that is required to operate an inhaler accessory device, or
  - (iii) a supply that is required to operate an inhaler accessory device ...

### **Medical equipment and devices — orthoses**

- 3.10** ... (a) a custom-made or off-the-shelf foot orthotic;
- (b) custom-made footwear;
  - (c) a permanent modification to footwear;
  - (d) off-the-shelf footwear required for the purpose set out in subsection (4.1) (a);
  - (e) off-the-shelf orthopaedic footwear;
  - (f) an ankle brace;
  - (g) an ankle-foot orthosis;
  - (h) a knee-ankle-foot orthosis;
  - (i) a knee brace;
  - (j) a hip brace;
  - (k) an upper extremity brace;
  - (l) a cranial helmet used for the purposes set out in subsection (7);
  - (m) a torso or spine brace;
  - (n) a foot abduction orthosis;
  - (o) a toe orthosis;
  - (p) a walking boot ...

### **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 on file with the office of the deputy 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.

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### *Appellant's Position*

The Appellant's position is that she had been forced into agreeing to have her teeth pulled out rather than receive the emergency dental assistance she requires and that she had been denied the opportunity to file an effective RFR. She also feels that the Ministry's Reconsideration Decision misrepresents her need for emergency and basic dental services and contains deceptive reasons for denying coverage, and that there is a significant gap between both the types of emergency and basic dental services that are available to the public versus those that are available to the Ministry's clients and between the maximum amount for basic dental coverage and the cost of dental procedures.

### *Ministry's Position*

The Ministry's position is that it cannot provide approval of the Appellant's application for crowns for two of her teeth because an initial decision has not been made by PBS, the Ministry's delegated agent, with respect to one of the teeth, the Ministry is not authorized to provide coverage for a crown under fee code 27201 because that fee code is not set out in the Ministry's Schedule of Fee Allowances - Crown and Bridgework, and because the Appellant's request for coverage for crowns for the two teeth in question

does not meet the eligibility requirements for either a crown and bridgework supplement or for emergency dental services.

### *Panel Decision*

Section 4.1(2) of Schedule C of the EAPWDR sets out the circumstances which must exist before the Ministry may determine whether a health supplement may be paid under section 63.1 of the EAPWDR for crown and bridgework. Section 63.1 says that a health supplement may be paid under that section for crown and bridgework only if the Ministry is of the opinion that a client has a dental condition that cannot be corrected through the provision of basic dental services because that condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowance - Dentist, *and* if her dental condition precludes the use of a removable prosthetic, she has a physical impairment that makes it impossible for her to place a removable prosthetic, she has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic, *or* if she has a mental condition that makes it impossible for her to assume responsibility for a removable prosthetic. As no evidence has been presented to indicate that the Appellant has a dental condition for which any of those conditions apply, the Panel finds that the Ministry reasonably determined that a crown supplement may not be provided under section 4.1 of Schedule C of the EAPWDR.

Section 4.1(1) of Schedule C of the EAPWDR requires that the provision of a crown as a dental service must be set out in the "Schedule of Fee Allowances - Crown and Bridgework" and be provided at or below the maximum rate set out for the service in that Schedule. In other words, the prescribed dental service must be listed in the Schedule of Fee Allowances - Crown and Bridgework, in which case the Ministry may approve a supplement up to the fee amount listed in the Schedule of Fee Allowances - Crown and Bridgework. The Panel notes that the original pre-determination form dated February 12, 2019 was prepared to seek approval for procedure 27201 on two of the Appellant's teeth. The Panel further notes that fee code 27201 does not appear in the Ministry's Schedule of Fee Allowances - Crown and Bridgework. As the provision of services under fee code 27201 is not listed in the appropriate schedule of fee allowances, the Panel finds that the Ministry reasonably determined that it is not authorized to provide the Appellant with dental service coverage for crowns based on the dental services requested in the February 12, 2019 pre-determination form.

The Panel also notes that, in reviewing the second pre-determination form dated March 2, 2019, PBC determined that the requested procedure 27211 is only available for permanent anterior and bicuspid teeth and that tooth number 36 and tooth number 37 are ineligible for that procedure as neither tooth is an anterior or a bicuspid tooth. The Panel finds that the Ministry reasonably determined that, based on the assessment of its agent PBC, tooth number 36 and tooth number 37 are ineligible for procedure 27211.

Regarding approval for a root canal for tooth #36, the Panel notes that the Ministry has determined that a root canal for that tooth has been pre-approved by PBC, and the Panel finds that the Ministry reasonably approved a root canal for the Appellant's tooth number 36, up to the maximum amount as set out in the fee schedule. Regarding a root canal for tooth #37, the Panel finds that the Ministry reasonably determined that that tooth had not been assessed for eligibility, as PBC reasonably required additional information from the Appellant's dentist before it could make a decision, and there is no evidence presented to indicate that the missing information had been provided by the Appellant's dentist to allow PBC to make the assessment.

Section 1 of Schedule C of the EAPWDR defines "emergency dental service" as a dental service necessary for the immediate relief of pain that, if provided by a dentist, is set out in the "Schedule of Fee Allowances - Emergency Dental - Dentist" (Part D), effective April 1, 2010. Section 64 of the EAPWDR

says that the Ministry may provide an emergency dental supplement for a family unit in receipt of disability assistance. As the Appellant is in receipt of disability assistance, the Panel finds that the Appellant meets the criterion for receiving an emergency dental supplement under Section 24 of the EAPWDR.

The Panel notes that Section 69 of the EAPWDR says that the Ministry may provide a prescribed health supplement or prescribed medical devices or equipment if it is provided to a person in the family unit who is otherwise not eligible for that supplement and if the Ministry is satisfied that, provided other specified conditions are met, the person faces a direct and imminent life threatening need. The Panel further notes that the prescribed health supplements, medical devices or equipment that the Ministry may provide to a family unit as set out in Sections 2(1)(a) and (f) and Section 3 of Schedule C of the EAPWDR are: medical or surgical supplies, transportation to or from a specified type of medical facility, canes, crutches, walkers, wheelchairs and wheelchair seating systems, scooters, toileting and transfer positioning aids, hospital beds, pressure relief mattresses, floor or ceiling lift devices, breathing devices and orthoses. As dental services are not included in the list of the prescribed health supplements, medical equipment and devices, the Panel finds that the Ministry reasonably determined that Section 69 of the EAPWDR does not apply and that, as a result, the Panel finds that the Ministry did not need to consider whether any evidence has been presented to suggest that the Appellant's life is directly and imminently threatened.

Regarding the Appellant's contention that the Ministry's Reconsideration Decision "*contains deceptive reasons for denying coverage*", the Panel finds that the Ministry reasonably reached the conclusions set out in its Reconsideration Decision as indicated above, and therefore the Panel sees no evidence of deception in the Ministry's decision.

With respect to the Appellant's contention that there is a significant gap between both the types of emergency and basic dental services that are available to the public versus those that are available to the Ministry's clients and between the maximum amount for basic dental coverage and the cost of dental procedures, the Ministry has stated in its Reconsideration decision 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 the legislation clearly sets out the types of health supplements that may be provided, and sets limits as to the amount of funding available in each case, the Panel finds that the Ministry reasonably determined that it has no authority to address any perceived gaps between the types of dental services that may be provided, or to exceed the maximum amounts that are set out in the appropriate schedules for those services, should Ministry clients be eligible for those supplements.

### *Conclusion*

Having considered all of the evidence, the Panel finds that the Ministry's Reconsideration Decision is reasonably supported by the evidence and is a reasonable application of the applicable enactment in the circumstances of the Appellant. Accordingly, the Panel confirms the Ministry's decision. Consequently, the Appellant is not successful in her appeal.

APPEAL NUMBER

**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

Simon Clews

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/09/17

PRINT NAME

Jennifer Armstrong

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/17

PRINT NAME

Carla Tibbo

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/09/17