

APPEAL NUMBER

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision dated November 4, 2019 which held that the appellant was not eligible for reimbursement coverage of the 10% patient fee in the amount of \$45.59 charged by a dental office to the appellant and paid by the appellant on September 10, 2019. The Ministry determined these charges are not defined in Schedule C of the Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) or set out in the Ministry policy entitled Schedule of Fee Allowances – Dentist and that they are therefore not able to provide reimbursement coverage for the services.

**PART D – RELEVANT LEGISLATION**

22(3)(b) of the Employment and Assistance Act (“EAA”)  
s. 25 Employment and Assistance for Persons with Disabilities Act (“EAPDA”)  
s.63, 64, Schedule C sections 1 - 5 Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

**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 EAA.

The evidence before the Ministry at reconsideration was:

- The appellant contacted the Ministry on September 25, 2019 by telephone to ask why their dental work was not covered. The Ministry requested that the appellant provide a copy of their invoice to be reviewed.
- On September 27, 2019 the appellant provided a copy of a dental statement that indicated they paid \$45.59 for a prior balance owing to their dentist. On October 9, 2019 the Ministry contact the appellant's dental office to clarify what the \$45.59 previous balance was for. In error, the person at the dental office advised the Ministry that the \$45.59 was for a tooth extraction that the Pacific Blue Cross ("PBC") rejected coverage for in April, 2019.
- On October 28, 2019 the appellant requested reconsideration. On November 1, 2019 a reconsideration officer determined:
  - On June 25, 2019 PBC approved the appellant's request for coverage of the extraction completed on April 23, 2019.
  - The reconsideration officer contacted the office manager of the dental office who confirmed the previous balance of \$45.59 was not because PBC rejected coverage for an extraction but was because of the 10% patient fee the dentist charges Ministry clients.
  - The officer advised that this fee was for services the appellant received on April 16, 23, May 14, 21, and 28 and noted that there is a credit of \$1.10 on the appellant's account.

The appellant provided an account for Sept 10, 2019 totalling \$254.86. This account shows that the \$45.59 and the \$4.39 charges were paid directly by the appellant. The appellant provided a PBC statement of April 23, 2019 showing that the \$45.59 was covered by PBC.

The Ministry included a policy entitled Dental Supplement – Dentist. Within the policy the schedule of fee allowances is set out.

The appellant's notice of appeal states: "my understanding was ministry would pay for everything up to a certain amount. I wouldn't have to pay for anything. Am I going to get billed for all the visits I had to dentist? The bill I sent you was the very first visit I had. Am I going to get a huge bill from my dentist?"

The Ministry relied on their reconsideration decision as their submission at the hearing.

**PART F – REASONS FOR PANEL DECISION**

The issue on appeal is whether the Ministry's decision to deny the appellant reimbursement coverage of the 10% patient fee in the amount of \$54.49 charged by a dental office to the appellant and paid by the appellant on September 10, 2019 by reason that the fee is not set out in Schedule C of EAPWDR or set out in the Ministry policy entitled Schedule of Fee Allowances is reasonably supported by the evidence or a reasonable application of the applicable legislation in the circumstances of the appellant.

The legislation provides:

**Employment and Assistance for Persons with Disabilities Act**

*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 except

(a) the power to prescribe forms, and

(b) the power to enter into an agreement under section 21 (2) or (2.1), unless section 21 (2.2) applies in relation to the agreement.

(2) A delegation of the powers, duties or functions of the minister must be in writing and may include any limits or conditions the minister considers advisable.

**Employment and Assistance for Persons with Disabilities Regulation**

*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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4; am. B.C. Reg. 161/2017, App. 2, s. 2.]

*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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

*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.*

*[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]*

#### *Schedule C*

#### *Section 1 definitions*

*"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 dentist,*

*(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.*

*For these reasons, the panel finds the Ministry's decision was (or was not) reasonably supported by the evidence (or a reasonable application of the applicable enactment in the circumstances of the appellant) and confirms (or rescinds) the decision.*

The panel finds:

Pursuant to s.25 EAPWDA the Ministry can delegate a person duties or functions under the Act. The Ministry delegates PBC to conduct the Ministry duties with respect to dental assessments. Pursuant to s.25, the delegation must be in writing. The Ministry did not provide a copy of the written delegation to PBC. The appellant did not argue that PBC did not have the proper delegation authority. The panel accepts the evidence of the Ministry, that despite no copy of the written delegation, the Ministry has delegated the PBC to conduct the Ministry duties with respect to dental assessments.

On the invoice for September 10, 2019 the appellant was charged a 10% patient charge on the Ministry claim in the amount of \$4.39. The appellant was also charged \$45.59 as the patient portion of the previous balance of their dental procedure. The appellant's previous balance according to the September 10, 2019 invoice was \$256.53 and the patient portion of that was found to be \$45.59. It is not clear from the September 10, 2019 invoice what procedures the previous balance was for and how many procedures there were.

The Ministry indicated that they had a telephone call with the dental office and the dental office informed them that the previous balance of \$45.59 was for the 10% patient fee that the dentist charges Ministry clients. The dental office advised that this fee was for services the appellant received on April 16, 23, May 14, 21, and 28. The dental office noted that there was a credit to the appellant for \$1.10. The panel finds that there is no detailed information for the procedures on April 16, 23, May 14, 21, and 28 including what they were and what they cost. There was some details about an April 23, 2019 visit showing that a single tooth extraction that cost \$45.59 was paid for by PBC.

There is no bill provided that would incur a 10% patient fee of \$45.59. However, the Ministry relied on the oral statement of the dental office to state that the previous balance of the appellant was in relation to the 10% patient surcharge on her dental procedures and at this time nothing remains owing by the appellant and she has a credit of \$1.10.

The Ministry found that because there is no 10% patient fee set out in their fee schedule that expense cannot be covered by them. The appellant states in her notice of appeal that the bill they sent the Ministry was the first visit they had at the dental office. However, the PBC form shows that the appellant had at least on other visit on April 23, 2019 for a tooth extraction.

The panel therefore accepts the evidence of the Ministry that there were other visits and there may have been other charges to the appellant which may have included 10% patient fee charges. The panel notes that having a more detailed accounting and record of the appellant's dental visits and determining which amounts were covered and which amounts were not would have been more helpful in determining if the appellant is entitled to a reimbursement of any fees incurred. However, the appellant only submitted one invoice, and noted that it was the first time she attended the dental office. The panel finds that this is not accurate given that there is documentary evidence that she attended the dental office on at least one other occasion being April 23, 2019. The appellant could have submitted her additional invoices along with her submission and request for reconsideration or notice of appeal.

The panel finds that based on a review of the fee schedule, the patient portion is not a coverable amount as set out in that policy. The panel reviewed the basic dental services and emergency dental services set out in Schedule C of the EAPWDR. These definitions permit payment as set out in the Schedule of Fee Allowances – Dentist. The panel reviewed the Schedule of Fee Allowances – Dentist provided in the reconsideration package. The panel found that there were no allocated amounts of the patient portion of dental expenses.

The panel therefore finds that the Ministry was reasonable in their decision and the appellant is not successful in their 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

MEGHAN WALLACE

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2019/Dec/17

PRINT NAME

JOHN PICKFORD

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019.12.19

PRINT NAME

BILL REID

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2019/Dec/18