

PART C – DECISION UNDER APPEAL

The decision under appeal is whether the Ministry of Social Development and Poverty Reduction's reconsideration decision dated December 24, 2019 which denied the Appellant coverage of dental fees for a maxillary complete denture and a mandibular removable partial denture was reasonably supported by the evidence or was a reasonable application of the applicable enactment, in the circumstances of the Appellant.

The Reconsideration Officer stated that the original decision, found in Section 2 of the Request for Reconsideration, made by a ministry worker denying the Appellant's request, did not constitute a denial by Pacific Blue Cross, the agency which approves dental supplements. The Reconsideration Officer termed the Reconsideration Decision "*an informational decision*", basing that determination on the assertion that the ministry worker who originally denied the Appellant's request did not have the authority to deny the Appellant's request.

At Reconsideration, the Reconsideration Officer then explained how the system worked, and what dental supplements the ministry could or could not provide under the *Employment and Assistance for Persons With Disabilities Regulations (EAPWDR)*, section 63, 64 and Schedule C, sections 1, 4 and 5 and the Schedule of Fee Allowances - Denturist and Schedule of Fee Allowances - Emergency Dental - Denturist.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 63 (*dental supplements*) and 64 (*emergency dental supplements*)

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Schedule C, Sections 1 (*definitions*), 4 (*dental supplements*) and 5 (*emergency dental supplements*)

PART E – SUMMARY OF FACTS**Nature of the Appellant's Application**

The Appellant asked for the ministry to pay for removal of her remaining maxillary teeth as well as a mandibular tooth, and provision of a maxillary complete denture and a mandibular removable partial denture. Services would be provided partly by an oral surgeon and partly by a denturist, at a total cost of \$4,535, of which the Appellant would be responsible for \$2,752.50.

Documents and Information Before the Minister at Reconsideration

The documents and information before the ministry at the time of the reconsideration decision included:

A. Request for Reconsideration Dated December 9, 2019

The Appellant applied for reconsideration following denial of her claim and stated

- finding out about the denial has put her in tears, especially after receiving the undated note from an oral surgeon which stated that the Appellant has increasing difficulty chewing, eating secondary to state of dentition, resulting in significant weight loss, such that the Appellant requires extractions and alveoplasty at a cost of \$432.30
- that she does not have “just difficulty chewing” but because she has no opportunity to connect with her lower teeth, she cannot chew at all
- her weight varies between 115 and 120 pounds and she is now 102 pounds
- the thought of having any food depresses her as it hurts her mouth after eating
- references including that of her family physician believe that the treatment recommended is necessary but she “just absolutely cannot afford the difference” almost to the point where she does not feel like going on in life
- and after all the appointments with dentists, denturists and oral surgeons that she has attended and has been denied, she is begging to please help her in any way
- she is on a “super tight budget” and relies on “loaves and fishes” for food and also on a religious charity
- that she does not use drugs, does not drink, and smokes if she can afford it
- she is having “huge anxiety, and some panic attacks” and does not know what else to say except that her health is slowly deteriorating.

B. Document Entitled “Health Supplement Info Sheet Dental & Orthodontic the Services”

This ministry form had written on it that it was for reconsideration and contained an endorsement from an oral surgeon stating “*the patient has had increasing difficulty chewing eating secondary to state of dentition. It has resulted in significant weight loss. Requires extractions + alveoplasty \$432.30 Sincerely Doctor [signature of oral surgeon]*”. This form contained the Appellant's note that the treatment for \$432.30 is part of the procedure, she cannot afford it and asking the ministry to cover the cost.

C. A letter dated November 29, 2019 from a Dentist

The dentist addressed the letter “*To whom it may concern*” and stated that the Appellant was having severe problems with her ability to eat, finds she is losing [*sic*] weight and having problems in general with her health. The denturist states that the Appellant's remaining teeth are in poor shape due to decay and periodontal disease and she requires removal of her remaining maxillary teeth as well as a mandibular tooth. The denturist states that replacement of these teeth will require a maxillary complete denture and a mandibular removable partial denture and that the Appellant has been referred to an oral surgeon and a denturist for these services.

D. A One-Page Treatment Plan dated November 20, 2019

This Treatment Plan recommended that the Appellant be provided with

- a specific exam (Denturist fee guide item 10104) at a cost of \$80, with insurance paying nothing and of the Appellant being responsible for the entire \$80
- an immediate complete upper-standard (Denturist fee guide item 31311) at a cost of \$1,635, with insurance paying \$675 and the Appellant being responsible for the remaining \$960
- Tissue Conditioning -Complete Upper Package (Denturist fee guide item 37110) at a cost of \$350, with insurance paying nothing and the Appellant being responsible for the entire \$350
- Reline - Complete Upper - Lab Processed Functional Imp (Denturist fee guide item 32110) at a cost of \$360 with insurance paying \$160 and the Appellant being responsible for the remaining \$200
- Partial Lower Free End Standard-Cast Frame (Denturist fee guide item 41124) at a cost of \$1750, with insurance paying \$787.50 and the Appellant being responsible for the remaining \$962.50
- Reline -Partial Lower-Lab Processed Functional Imp (Denturist fee guide item 42126) at a cost of \$360, with insurance paying \$160 and the Appellant being responsible for the remaining \$200

such that of the total quoted cost of \$4,535, insurance would pay \$1,782.50 leaving the Appellant responsible for the balance of \$2,752.50.

The Treatment Plan stated that the estimate was good for 6 months, and the entire treatment plan will take about a year. There were other comments in the Treatment Plan including the comment that if the Appellant was still covered under her care card she would have a new \$1000 limit starting January 2021, that if she had the lower partial done first and then proceeded to an upper immediate denture, the estimate would be as per the Treatment Plan but a lower partial would not be covered until 2021 if the upper is done first. The Treatment Plan also noted that the Appellant's benefits would "max out" after billing for the dentures, that the insurance would not pay for tissue conditioning as they are not covered over limit, as well as other comments.

E. Dental Claims History for the period January 1, 2018 to December 23, 2019

This four-page document shows that in that time the Appellant has received the services to a total of \$2,149.46, with the earliest service being March 1, 2018 and the last service being October 22, 2019. The claims document shows that the total amount claimed was \$2,149.46 of which the ministry paid \$1,438.84.

One page of this 4-page document breaks down payments for May 31st, but does not state which year, and another page breaks down payments for May 31st 2019 and October 22, 2019 for a total of \$337 claimed for services for those 2 days, of which the ministry paid \$186.40.

Information Provided on Appeal**F. Notice of Appeal Dated January 8, 2020**

In her Notice of Appeal, the Appellant stated that

- she is unable to obtain a loan because of bankruptcy,
- is at her wits end with needing this "*Emergency*" procedure,
- she has no other means of borrowing the difference,
- she has now lost over 15 pounds "*due to can't chew*", and asks
- "*please. This is my last chance*"

Appellant's Additional Evidence

The Appellant provided no additional evidence.

Ministry's Additional Evidence

The ministry provided an up-to-date printout of the Appellant's dental claims for the period May 31, 2019 to February 13, 2020. The print-out showed that there was a total claim of \$2,147 of which the ministry had allowed \$1,000. The ministry explained that the \$1,000 is the maximum amount permitted in any 2 year period beginning with January 1 in any odd-numbered year and ending on December 31 in subsequent even-numbered year, pursuant to *EAPWDR* Schedule C, Section 4(1)(b) & 4(1.1)(b).

The ministry explained that the printout was more up-to-date than the printout supplied in the appeal record.

Panel Finding Respecting the Ministry Additional Evidence

After a short adjournment to consider the question of admissibility, the panel reconvened and gave its decision concerning admissibility of the ministry's additional evidence.

The panel finds that the ministry's additional evidence bears directly on the amount of dental subsidy the Appellant is permitted, because, while there is an "over-limit" allowance for certain dental supplements, the \$1,000 two-year limit must be exhausted and applied to any new dental work sought before that over-limit can be considered.

The panel finds that the additional evidence is reasonably required for a full and fair disclosure of all matters related to the Reconsideration Decision under appeal because it more fully and completely explains the dental subsidies allowed to the Appellant, and as such admits it as evidence pursuant to the *Employment and Assistance Act*, Section 22 (4).

PART F – REASONS FOR PANEL DECISION**Issue on Appeal**

There are 2 Issues to be dealt with on this appeal.

1ST Issue:

The first issue to be decided is whether the Reconsideration Officer's determination that the denial of the Appellant's original request was in fact a denial. If it was not, then there was no denial subject to Reconsideration. If it was a denial, then it was a decision subject to Reconsideration, which in turn is subject to Appeal.

The question is then whether or not the Reconsideration Officer's determination that the Reconsideration Decision was in fact a Reconsideration Decision or was only an "*informational decision*" was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the Appellant.

2ND Issue:

The 2nd issue to be decided is the substantial issue of whether or not the Ministry of Social Development and Poverty Reduction's reconsideration decision dated December 24, 2019 which denied the Appellant coverage of dental fees for a maxillary complete denture and a mandibular removable partial denture was reasonably supported by the evidence or was a reasonable application of the applicable enactment, in the circumstances of the Appellant.

Relevant Legislation**Employment and Assistance for Persons with Disabilities Regulation, Section 1****Definitions**

"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;

Employment and Assistance for Persons with Disabilities Regulation, Section 63**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.

Employment and Assistance for Persons with Disabilities Regulation, Section 64
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.

Employment and Assistance for Persons with Disabilities Regulation, Schedule C, Section 4
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.

Employment and Assistance for Persons with Disabilities Regulation, Schedule C, Section 5 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.

Parties' Positions at Appeal

Appellant's Position

The appellant said that as at October 2019 she only had 2 solid teeth which allowed her to chew, and in October her one remaining molar broke. She went to her dentist who provided her with a temporary repair, which lasted for about a month. That repair cost her \$110.

The Appellant went on to say that she cannot now chew and has a number of holes where her teeth were, and that because of her difficulties eating, while her normal weight was always between 115 and 120 pounds, she is now about 102 pounds. Her teeth are now cutting the edge of her tongue.

She said that her dentist has told her that her health is at risk and that he wrote a letter as did the oral surgeon, urging the repairs be done. She also said that another doctor had written a letter in support, and this doctor weighed her when she first moved to and then recommended that she begin a nutritional supplement. The Appellant said that this Doctor told her that her weight loss was inextricably tied up with the loss of her teeth, and confirmed that her health was at serious risk. The ministry was unable to explain why this letter, which the appellant said was submitted to the ministry, was not included in the documents the ministry supplied to the Employment and Assistance Appeal Tribunal.

The Appellant said that she can only eat soft foods, because other food hurts to eat; after she eats it takes about half an hour to clean her remaining teeth she also complained that the ministry should get the guidelines out of the archaic state that they are in because they are "*like 20 years ago*".

The Appellant also said that she has attempted to get a payment plan in place because she is unable to borrow money to make up the difference between what the ministry will pay and what the dentist will charge. She said that she had not investigated low-cost dental services, which may provide services at or a little above the ministry rates.

The Appellant said that she had asked the ministry if they could cover the full cost, with the amount over the approved amount being a loan that she could pay back by a reduction from her usual monthly assistance cheque and was told that was not possible.

She said that she had gone to her dental advisors, done everything that was required of her, made an application for assistance, and been refused by the ministry worker and could not understand why, and that is why she asked for a Reconsideration, and she can't understand why the Reconsideration refused her all assistance. She said that she specifically contacted the ministry on December 3, 2019 because she was in desperate need of dentures and submitted a letter from her dentist which confirmed what she had said about her loss of teeth, loss of weight, her health, and what was needed to provide her with proper teeth. She also said that her dental advisors had submitted a treatment plan and the panel notes that there

is a treatment plan dated November 20 or 21, 2019 [the Reconsideration Decision stated that the treatment plan was dated November 21, 2019 but the actual treatment plan said that it was created on November 20, 2019].

The Appellant said that she has had an impression taken, and needs a “liner” according to the dentist, at an estimated fee of \$432.30. This “liner” is the alveoplasty that she was told is necessary and which was quoted by the oral surgeon at \$432.30. The Appellant said that this quotation was on the document which noted that her next appointment was for December 5, 2019, and the appointment was to perform the alveoplasty, but because she did not have the money necessary she cancelled the appointment. She also said that she was told the ministry would not cover the alveoplasty because the ministry believes it is not necessary, despite the oral surgeon stating “*Requires extractions + alveoplasty \$432.30*”.

The Appellant also said she believes that the ministry would cover the \$1,782.50 given as the “estimated insurance cost” on the treatment plan created November 20, 2019 and believes that the ministry would cover all costs in the event of an emergency. She said that if the ministry would only pay the \$1,782.50 she would have to find the remaining \$2,752.50.

The Appellant said that all she wants is the dentures that have been recommended so that she can eat properly, and the imminent danger to her health will be alleviated. She also said that she found the suggestion that she use the Medical Services Plan to have all of her teeth extracted insulting.

Ministry Position

The Ministry explained the ministry steps that are necessary through its policy to obtain dental services; the ministry stated that applications have to be made through Pacific Blue Cross (“PBC”) by a dentist or dentist and it is PBC that will make a decision as to what will or will not be allowed. The ministry said that the decision on what was and what was not allowed would be provided by PBC to the dentist or dentist who would have to communicate that to the patient.

The ministry stated that it had approved the lower denture and that process has started, but that the Appellant has used up the entirety of her \$1,000 2-year allowance allowed under *EAPWDR* Schedule C, Section 4 (1)(b) & (1.1)(b).

The Ministry said that once that limit is reached, a request can be made for an “over-limit” amount, over and above the \$1,000 permitted every 2 years.”. The ministry pointed to part of that Dental Supplement – Dentist under “Denture Policy” which reads “*For those patients that have a 2-year limit, funds still available within that limit will be utilized to pay for the denture(s) with the remaining balance for the denture(s) paid over limit*”. The ministry said that there is an upper limit governed by the “Dental Supplement - Dentist” and the “Dental Supplement - Dentist” fee schedules, and that the policy referred to was not open-ended such that the entire cost would be paid.

The ministry also pointed to *EAPWDR* Schedule C, Section 4 (3),(4) & (5). The ministry pointed out that Section 4(3) deals with the “over-limit” amounts that may be provided to a person and that Sections 4(5) and (6) provide limitations to what may be provided as basic dental services.

Basic dental services are defined in Section 1 of Schedule C as those things and amounts set out in the Schedule of Fee Allowances - Dentist (or Dentist).

The panel questioned the ministry on those amounts. The panel pointed out that

- Section 4(3)(a) allows an over-limit amount for a person who requires a full upper denture, a full lower denture, or both because of extractions made in the previous 6 months to relieve pain,

- that Section 4(3)(b) allows for a partial denture to replace at least 3 contiguous missing teeth at least one of which was extracted in the previous 6 months to relieve pain, or
- Section 4(3)(c) allows for a replacement denture for someone who has been on disability assistance or income assistance for at least 2 years.

The panel pointed out that Section 4(5) limits what may be provided under subsection 4(3)(b) & (c) and that Section 4(6) limits what may be provided under subsection 4(3)(c), but there appears to be no limit on the “over-limit” amount that may be provided for someone who requires a full upper denture or a full lower denture or both under subsection 4(3)(a).

The ministry agreed that there is no such limit prescribed in those subsections and could not explain why it would not allow the full cost of the upper and lower dentures as “over-limit” coverage under subsection 4(3)(a), except to reiterate that the ministry was limited to the Supplements referred to above.

Panel Findings - 1ST Issue

The panel notes that there is nothing in either the *Employment and Assistance for Persons with Disabilities Act* or the *Regulations* which confers decision making authority upon any particular employee of the ministry, or more importantly, states that any particular ministry employee does not have authority to make a decision granting or denying a request from an applicant for assistance of any type.

The fact that Pacific Blue Cross has the general authority to approve or deny coverage for dental services does not mean that employees working directly for the ministry do not have that authority; it may be policy that employees are not to make decisions approving or denying dental supplements for Persons with Disabilities, but policy is not law.

The panel finds that whether or not the ministry’s policy and procedures were followed is not material, and the failure to strictly follow the policies, by having the Dentist or Denturist make the request of PBC, and then relay the decision to the Appellant is not a failure that can be laid at the feet of the Appellant.

The panel notes that the Reconsideration Officer found that the original denial of the Appellant’s request (as set out in Section 2 “Decision to be Reconsidered” of the Reconsideration Request) was made by an Employment and Assistance Worker employed by the ministry.

Considering the Appellant’s evidence and submissions, the panel finds that the Appellant relied on the refusal by the ministry worker, to her detriment. The panel notes that the decision issued by the ministry was in the form and manner of a Reconsideration Decision, apart from a few short paragraphs among over 100 pages. The panel finds that that refusal was made, if not under explicit then certainly under ostensible authority, and is therefore subject to Reconsideration. The panel further finds that there is no such thing as an “*informational decision*” and the decision dated December 24, 2019, signed by the Reconsideration Officer was in fact a Reconsideration Decision and is subject to Appeal.

applied to the ministry for provision of upper and lower dentures, was refused, asked for Reconsideration, and was not rendered a Reconsideration Decision about her original refused application, but was instead provided with an explanation of ministry policy.

The panel finds that the Reconsideration Officer, in terming the Reconsideration Decision as an “*informational decision*”, and in relying on policy rather than legislation in determining that the Employment and Assistance Worker had no authority to deny the request, made a decision which was not a reasonable application of the *Employment and Assistance for Persons with Disabilities Act* or of the *Regulations* in the circumstances of the Appellant.

Panel Findings - 2ND Issue

The 2nd issue to be decided is the substantive issue of whether or not the Ministry of Social Development and Poverty Reduction's reconsideration decision dated December 24, 2019, which, by not addressing the Appellant's Reconsideration Request, denied the Appellant coverage of dental fees for a maxillary complete denture and a mandibular removable partial denture, was reasonably supported by the evidence or was a reasonable application of the applicable enactment, in the circumstances of the Appellant.

The panel notes that it appears that in the case of a person "*who requires a full upper denture, a full lower denture, or both because of extractions made in the previous 6 months to relieve pain*", the amount that may be provided as over-limit coverage is not limited to the amounts specified in the Dental Supplement - Dentist or in the Dental Supplement - Denturist, for when that coverage is provided under *EAPWDR* Schedule C, Section 4(3). Because the Appellant applied for very specific Fee Guide items, albeit through the Denturist, and it was those items that were not approved and the non-provision of those items that were the subject of the Appellant's application for Reconsideration, the panel finds that it is not necessary to rule on whether there is or is not an upper limit under that sub-section but will leave that specific question for another panel on another day. The panel does note however that if the Appellant had applied for dentures without specifying specific Fee Guide items, then the ruling on this particular issue might well have been different.

In the case of the Appellant the panel finds that there was in fact a treatment plan provided with an estimate of the cost of specific procedures, an estimate of the insurance cost and an estimate of the cost that the Appellant would have to pay; this was the treatment plan created November 20, 2019.

Over-Limit Amounts Permitted by *EAPWDR* Schedule C, Section 4 (3)

This sub-section permits the Minister to exceed the normal \$1,000 in dental supplements allowed in any 2-year period beginning on January 1 of any odd-numbered year as provided for in *EAPWDR*, Schedule C, Section 4(1)(b) & (1.1)(b) (an "over-limit" amount).

If an over-limit amount is allowed, it must be for dentures consisting of either a full upper, a full lower, or both because of extractions made in the previous 6 months to relieve pain; also permitted is a partial denture to replace at least 3 contiguous missing teeth on the same March, so long as at least one was extracted in the previous 6 months to relieve pain. The recipient must be someone who has been in receipt of disability assistance for at least 2 years.

There was no dispute that the Appellant, designated as a Person with Disabilities has been in receipt of disability assistance for at least 2 years. The appellant's evidence was that she had had extractions in the previous 6 months, specifically in October 2019, and that as at that month she only had 2 solid teeth remaining, was and remains in pain, cannot chew, and has a number of holes where her teeth used to be.

The panel finds that the Appellant is a person that to whom *EAPWDR* Schedule C, Section 4(3) applies such that the Appellant may be provided with amounts which exceed the normally allowable amount of \$1,000 in every 2-year period beginning on January 1 in any odd numbered year.

The panel finds that the overall scheme of the legislation, in the circumstances of the Appellant who applied for the provision of specific Fee Guide items, is to provide for dental supplements, which may exceed the 2-year \$1,000 limit, but may not exceed the amounts provided for in the Dental Supplement – Dentist or Dental Supplement - Denturist. The panel emphasizes that this finding is limited to the circumstances of the Appellant, and may not be the same in the case of another applicant.

Thus, it is not necessary for the panel to determine whether or not “over-limit” coverage is available without limit under *EAPWDR* Schedule C, Section 4(3)(a) in the circumstances of this Appellant.

The panel finds that the Appellant applied for various things as described in the Dental Supplement - Denturist as follows:

- Fee Guide Item 10104 “Specific Exam” at a cost of \$80 with insurance coverage being denied, and estimated patient cost being \$80,
- Fee Guide Item 31311 “Immediate Complete Upper-Standard” at a cost of \$1,635, insurance paying \$675 and and estimated patient cost being \$960
- Fee Guide Item 37110 “Tissue Conditioning-Complete Upper Package” at a cost of \$350, insurance coverage being denied, and estimated patient cost being \$350,
- Fee Guide Item 32110 “Reline-Complete Upper-Lab it Processed Functional Imp” at a cost of \$360, insurance paying \$160 and estimated patient cost being \$200,
- Fee Guide Item 41124 “Partial Lower Free End Standard-Cast Frame” at a cost of \$1,750, insurance paying \$787.50, and estimated patient cost being \$962.50,
- Fee Guide Item 42126 “Reline-Partial Lower-Lab Processed Functional Imp” at a cost of \$360, insurance paying \$160, and estimated patient cost being \$200

The Panel further finds that Fee Guide Items #10104 in the amount of \$16, #31311 in the amount of \$675, #37110 in the amount of \$39.20, #32110 in the amount of \$160, #41124 at the amount of \$787.50 and #42116 a at the amount of \$156.80, totaling \$1,834.50 are supplements to which the Appellant was entitled at the time of application and to which the Appellant is now entitled. The amounts listed for each Fee Guide Item are those amounts as found in the “Schedule of Fee Allowances - Denturist”.

The panel further finds that in refusing these fee guide items, the Reconsideration Officer did not make a decision that was reasonably supported by the evidence nor did the Reconsideration Officer reasonably apply the *Employment and Assistance for Persons with Disabilities Act and Regulations* in the circumstances of the Appellant.

Summary

The Appellant is entitled to dental supplements totaling \$1,834.50, and is successful in her appeal.

APPEAL NUMBER

2020-00008

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

DONALD (DAN) McLEOD

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

PRINT NAME

MARNEE PEARCE

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

PRINT NAME

DONALD STEDEFORD

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)