

APPEAL NUMBER  
2020-00045

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of January 30, 2020 in which the ministry denied coverage for the appellant's dental fees which were in excess of ministry rates – set out in section 63.1 of the Employment and Assistance for Persons with Disabilities Regulation, and Schedule C of the same.

**PART D – RELEVANT LEGISLATION**

EAPWDR *Employment and Assistance for Persons with Disabilities Regulation, section 63.1, & Schedule C*  
*Schedule of Fee Allowances – Dentist, Emergency Dental – Dentist, Crown & Bridgework*

**PART E – SUMMARY OF FACTS**

The information before the ministry at the time of reconsideration included the following:

- 1) **December 18, 2019** – the appellant contacted the ministry by phone to advise that they needed emergency dental services; but were informed that the ministry would not cover the full amount. The appellant requested a reconsideration of the decision. The appellant provided the following information: Standard dental claim form requesting coverage for fee code 01204, 04501, and 02802. The dentist noted the following, *“Pt wishes to have CT scan done to confirm pain and purple clot on gum are not life threatening”*. Predetermination of benefits confirming that insurance company approved the request for the specific treatment (fee codes 01204 and 04501) as basic dental services up to the ministry maximum. Additionally, the insurance company rejected the request for the MRI because it is not set out in the Schedule of Fees – Dentist.
  
- 2) **January 20, 2020** – the appellant submitted a Request for Reconsideration. In that, the appellant explained that the dental request cannot be provided by basic dental services and the absence of provisions does not excuse the ministry from realizing hardship. The appellant noted that it is *“unfair that there is no Act or Regulation relevant to their request”*. The appellant provided the following documents:
  - o Letter written by physician confirming that he referred the appellant to an endodontist and oral medicine specialist for evaluation,
  - o and dental x-rays.

## **PART F – REASONS FOR PANEL DECISION**

The decision under appeal is the reasonableness of the Ministry of Social Development and Poverty Reduction's (the "ministry") Reconsideration Decision of January 30, 2020 of which the ministry denied coverage for the appellant's dental fees which were in excess of ministry rates – set out in section 63.1 and Schedule C of the Employment and Assistance for Persons with Disabilities Regulation.

The relevant section of the legislation is as follows:

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

#### **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.

#### **Schedule C**

#### **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

### Panel Decision

The ministry's position, as set out in the Reconsideration Decision, is that the appellant is not eligible for coverage of the Radiograph (fee code 02802) because it is not set out in the Schedule of Fee Allowances – Dentist, Crown & Bridgework. Further, the ministry is unable to provide coverage for fees that are in excess of the rates set out in the Schedule of Fee Allowances – Dentist. More specifically, the two other fee codes requested by the appellant (01204 & 04501) are granted/covered as requested, however it is only covered up to the maximum allowable under the rates set out in Schedules of Fee Allowances – Dentist.

The appellant's position, as was reiterated at the hearing is that the legislation should allow for the coverage of the radiography, as well as the other two fee codes (dental services) in full. The appellant noted that the legislation should allow for full coverage, and that changes in the legislation are required to ensure fairness.

As per section 63.1 of the Employment and Assistance for Persons with Disabilities Regulation; 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. Under Schedule C, section 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.**

The panel finds that the evidence establishes that the appellant was approved for the requested dental services (fee codes 01204 & 04501) covered under the legislation, and up to the maximum allowable rates under the Schedule of Fee Allowances – Dentist. Further, the panel finds that the evidence establishes that the request for dental service (fee code 02802) was denied because it is not listed under the Schedule of Fee Allowances – Dentist. The panel considers that the ministry does not have discretion in the matter related to what is covered under the Schedule, and therefore acted reasonably in this matter. While the panel acknowledges the appellant feels that all of the requested services should be covered in full, the panel does not have jurisdiction to consider whether the legislation is fair. Rather, the panel's jurisdiction is restricted to determining whether the ministry acted reasonably under the circumstances when they applied the legislation.

Accordingly, the panel finds that the decision of the ministry to deny dental coverage which were above the maximum rates set out within the Schedule of Fee Allowances, and or for those not listed is reasonably supported by the evidence in this case. Therefore, the panel confirms the ministry's decision pursuant to section 24(1)(a) and section 24(2)(a) of the Employment and Assistance Act. The appellant therefore is not successful in this appeal.

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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

Jennifer Armstrong

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/03/13

PRINT

Vivienne Chin

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/03/18

PRINT NAME

Jeremy Sibley

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/03/13