

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (“the ministry”) reconsideration decision dated May 8, 2020 which denied the appellant's request for a health supplement to cover the cost of cast-frame mandibular lower dentures. The ministry found that the services requested are included as a "basic dental service" in Section 4 of Schedule C of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), but determined that it is not authorized to exceed the maximum basic dental services coverage of \$1,000 per two-year period. The ministry also determined that the appellant's request does not meet the criteria for exceeding the two-year maximum, namely:

- supply of a lower denture where at least 1 tooth has been extracted in the past 6 months;
- crisis supplement;
- emergency health supplement; or
- life-threatening health need.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation:

- Sections 57, 62, 63, 63.1, 64, 65, and 69
- Schedule C, sections 1, 4 and 5

Schedule of Fee Allowances – Dentist, Emergency Dental – Dentist, Crown & Bridgework

PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration included:

- standard dental claim form dated February 7, 2020 completed by the appellant's dentist ("Dr. D") requesting partial lower denture (cast frame), fee code 53102;
- amended standard dental claim form dated March 13, 2020 with the following note by Dr. D: "[Appellant] does not have any funding left through the ministry dental plan for the remainder of this year. His limits do not reset until Jan 1, 2021.";
- Pacific Blue Cross ("PBC") dental claim details dated May 7 2020 listing dental services received by the appellant for the period March 12 – September 19, 2019;
- PBC form dated May 7, 2020 rejecting appellant's request for a partial cast frame denture because appellant had reached the maximum allowable dental coverage available under the coverage plan;
- appellant's Request for Reconsideration submitted to the ministry on May 8, 2020 with the following attachments:
 - appellant's self-report summarized as follows:
 - in 2019 upper teeth were extracted and upper denture inserted due to pain experienced by appellant;
 - appellant can't chew or bite due to having no back teeth;
 - upper dentures are painful and cause sores in mouth;
 - all food must be chewed properly due to appellant's kidney stones;
 - appellant has no other resources with which to pay for a lower denture;
 - submission authored by appellant's advocate ("B").

Information received after Reconsideration

During the hearing the appellant provided the following oral information:

- lack of a lower denture is causing bleeding mouth and swollen gums;
- the appellant chokes on food happens because of limited ability to chew;
- the appellant is unable to return to Dr. D to enquire about an acrylic denture because Dr. D. requires a \$300 advance fee and additional payments of \$100 per month which the appellant cannot afford.

Admissibility of Additional Oral Information

The ministry representative did not object to the admissibility of the appellant's oral evidence.

EAA Section 22 (4) states: "*A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.*" The panel considered the appellant's additional oral information and determined that all of it should be admitted under EAA Section 22(4) because it provides additional information relevant to the issue under appeal, namely the urgent need for a lower denture to relieve pain and chewing/swallowing difficulties.

After providing the additional information listed above the appellant stated that they no longer wished to participate in the hearing or answer questions from the ministry representative or panel members. Each of the panel members urged the appellant to remain in order to answer questions that might be relevant to the outcome of the appeal, but the appellant refused to continue and left the teleconference hearing.

The ministry relied on the reconsideration decision.

PART F – REASONS FOR PANEL DECISION

The issue under appeal is whether the ministry was reasonable in denying the appellant's request for a supplement to cover the cost charged for cast-frame mandibular lower dentures. The ministry found that the services requested are included as a "basic dental service" pursuant to Section 4 of EAPWDR Schedule C but determined that it is not authorized to exceed the maximum basic dental services coverage of \$1,000 per two-year period. The ministry also determined that the appellant's request does not meet the criteria for exceeding the two-year maximum, namely:

- supply of a lower denture where at least 1 tooth has been extracted in the past 6 months;
- crisis supplement;
- emergency health supplement; or
- life-threatening health need.

Relevant legislation:

EAPWD

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability assistance or hardship assistance if

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in

(i) imminent danger to the physical health of any person in the family unit.

(3) A crisis supplement may not be provided for the purpose of obtaining

(a) a supplement described in Schedule C, or

(b) any other health care goods or services.

General health supplements

62 The minister may provide any health supplement set out in section 2 [*general health supplements*] or 3 [*medical equipment and devices*] 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.

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,

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 (1) 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

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 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

“emergency dental service” means a dental service necessary for the immediate relief of pain that,

- (a) if provided by a dentist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Dentist, that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
 - (ii) is provided at the rate set out in that Schedule for the service and the category of the person receiving the service, and
- (b) if provided by a denturist,
 - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Denturist, that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
 - (ii) is provided at the rate set out in that Schedule for the service and the category of the person receiving the service.

Dental supplements

- 4 (1) In this section, “period” means
- (a) in respect of a person under 19 years of age, a 2 year period beginning on January 1, 2017, and on each subsequent January 1 in an odd numbered year, and
 - (b) in respect of a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.
- (1.1) The health supplements that may be paid under section 63 [*dental supplements*] of this regulation are basic dental services to a maximum of
- (a) \$2 000 each period, if provided to a person under 19 years of age, and
 - (b) \$1 000 each period, if provided to a person not referred to in paragraph (a)
- (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.

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.

The appellant argues that the ministry should approve the request for a lower cast frame partial denture because the appellant is in constant pain, is at risk of choking and must ensure that food is chewed in order to prevent growth of kidney stones.

The ministry's position is that the appellant is ineligible for a lower cast frame denture because it would exceed the maximum allowable coverage for basic dental services allowable under the legislation. The ministry also argues that the appellant is not otherwise eligible for the denture as a crisis supplement, emergency dental service or life-threatening health need.

PANEL DECISION

1. Maximum Allowable Coverage

As a recipient of disability assistance the appellant is eligible for a health supplement under EAPWDR Section 62. Section 63 provides coverage for basic dental services provided by a dentist, denturist or dental hygienist to recipients of disability assistance. Section 4 of Schedule C sets out the maximum coverage for basic dental services for each period defined in the legislation. "Period" is defined in subsection (1) as "a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year". The appellant's current 2-year period commenced January 1, 2019 and continues until December 31, 2020. The maximum amount of basic dental services coverage available to the appellant under the legislation is set out in subsection (1.1) is \$1,000.

The appellant's PBC claims history indicates that the appellant is not entitled to additional dental services coverage for the current period because dental claims to date exceed \$1,000. The panel therefore finds that the ministry reasonably determined that the appellant is not eligible for a cast frame lower denture as a basic dental service until January 1, 2021.

Schedule C Section 4 (3) (b) allows the \$1,000 limit to be exceeded for a partial denture that is needed to replace at least 3 missing teeth where at least 1 tooth has been extracted in the past 6 months to relieve pain. The appellant is unable to remember when his lower teeth were extracted, but recalls that it happened sometime in the past in another province. The panel finds that the ministry reasonably determined that the appellant is ineligible under this subsection.

2. Eligibility through a Crisis Supplement

EAPWDR Section 57(c) states that a crisis supplement may not be provided for the purpose of obtaining a health supplement under Schedule C. The appellant is requesting a health supplement for a basic dental service that is included in Schedule C. The panel therefore finds that the ministry reasonably determined that the appellant is not eligible for a crisis supplement under Section 57.

3. Eligibility as an Emergency Dental Service

A recipient of disability assistance may be eligible for emergency dental service under EAPWDR Section 64. Emergency dental service is defined in Schedule C, Section 1 as “*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, . . . and is provided at the rate set out in that Schedule for the service and the category of the person receiving the service*”.

The evidence of the appellant establishes that the appellant requires a new lower partial denture for the immediate relief of pain. However “The Schedule of Fee Allowances – Dentist” limits provision of emergency dental services to denture repairs and adjustments (pg 52 of Schedule of Fee Allowances – Dentist). Specifically the schedule of allowable dentists’ fees states: “*Fee items will be restricted to the 52000 series outlined in the Schedule of Fee Allowances - Dentist. No cast dentures will be covered in excess of the patient’s limit*” (Preamble, page 2). The appellant is asking for a cast frame denture included in the 53000 series, not an acrylic denture within the 52000 series.

The panel therefore finds that the ministry reasonably determined that the appellant is not eligible for a partial lower denture as an emergency dental service.

4. Eligibility due to a Life-Threatening Health Need

EAPWDR Section 69 lists the following eligibility criteria for a health supplement in the event of life-threatening health need:

1. direct and imminent life-threatening health need and no resources available;
2. health supplement is necessary to meet the need;
3. receiving premium Medicare assistance;
4. the following Schedule C requirements are met:
 - i. subsections 2(1) (a) (*wound care*) or (f) (*limb circulation care*) and (3) (*a supplement already received but now repealed*) of Schedule C; or
 - ii. sections 3 to 3.12 (*health supplements not including dental devices or services*), other than paragraph (a) of section 3(1) (*already eligible under Section 62*) of Schedule C.

Criterion 1 of Section 69 is met because the appellant experiences pain, sores and chewing difficulties that could result in a life-threatening consequence of choking, and the appellant has no resources to meet the need for a lower partial denture. Criteria 2 and 3 are also met. However dental supplies and treatment are not included in the supplements listed in (i) or (ii) Criterion 4. Because Criterion 4 has not been met the appellant is ineligible under this section.

The panel therefore finds that the ministry reasonably determined that the appellant is not eligible for a lower partial denture as a life-threatening health need.

Conclusion

For the reasons discussed under Headings 1-4 of this decision the panel finds that the ministry’s decision to deny a cast frame lower partial denture at this time is reasonably supported by the evidence and confirms the ministry’s decision. The appellant is not successful in this appeal.

APPEAL NUMBER 2020-00144

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

Joan Bubbs

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2020/Jun/12

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/Jun/12

PRINT NAME

Jean Lorenz

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2020/Jun/12