

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction’s (the “Ministry”) decision of December 10, 2020 in which the Ministry determined that the appellant was not eligible for dental fees to be covered in excess of Ministry rates, pursuant to section 63 and Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation*.

PART D – RELEVANT LEGISLATION

EAPWDR – *Employment Assistance for Persons with Disabilities Regulation, section 63 and Schedule C*

PART E – SUMMARY OF FACTS

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

- 1) **November 26, 2020** – The appellant submitted their Request for Reconsideration. In the Reconsideration Request, the appellant explained their dental history and need for dentures, and also provided medical records. The most current and relevant information included:
 - a) **Treatment Plan** from the appellant’s denturist – dated September 29, 2020 indicating a need for a full upper denture and a partial lower denture at a total cost of \$2,600.00. The insurance company indicates coverage for a total of \$1,125.00 – with a total of \$1,475.00 remaining as the patient portion.
 - b) **November 21, 2020** dated letter, written by the appellant, which outlines the series of events leading up to the March 13, 2020 full extraction of the upper teeth, and partial extraction of the lower teeth. In this letter, the appellant asserts that they were informed by the Ministry that dentures would be fully provided.

Additional Information

The appellant provided a January 8, 2021 dated and signed Release of Information for their representative to attend the hearing and speak on their behalf.

At the hearing, the appellant disclosed relevant information that was not before the Reconsideration Officer at the time the Reconsideration Decision was made but was considered by the panel as reasonably required for a full and fair disclosure of all matters related to the decision under appeal, pursuant to section 22(4) of the *Employment and Assistance Act*. The new information consisted of the fact that the appellant suffered bleeding gums, infection and considerable pain since the March 13, 2020 full and partial extraction. The ministry representative at the hearing did not object to the admissibility of this information.

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") decision of December 10, 2020 in which the Ministry determined that the appellant was not eligible for dental fees to be covered in excess of Ministry rates, pursuant to sections 63, and Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation*.

Legislation

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.

Schedule C - Health Supplements

"basic dental service" means a dental service that (b) 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 minister, and (ii) is provided at the rate set out in that Schedule for the service and the category of person receiving the service

Schedule C - 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.

4 (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).

4(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.

4(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 dependent of that person requires replacement dentures.

4(4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.

4(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.

Panel Decision

The Ministry's position is that the appellant is entitled to the maximum amount available to cover the cost of the full upper and partial lower required dentures, as set out in section 63 and Schedule C of the *Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)*, despite the fact that the coverage would be in excess of the \$1,000.00 2-year limit for basic dental services. The ministry contends that at the time the Reconsideration Decision was made the remaining amount available to the appellant for the remainder of that 2-year period was \$261.89. The Ministry provides that the 2-year period began January 1, 2019 and ended December 31, 2020. It is a matter of fact, and as provided by the ministry, that the coverage by the insurer listed under the Schedule of Fee Allowances, does not cover the total cost of the required dentures (\$2,600.00). The remaining total cost is \$1,465.00 and is considered the patient's portion.

The appellant provided at the hearing that the extraction of their teeth has caused pain, infection and bleeding since March 13, 2020 (the date of the extraction). The appellant provides that they were told by the Ministry that dentures would be covered in full and asserts that they cannot afford the patient portion of the dentures – leaving them to suffer the indignity of no teeth, no natural ability to chew, and to suffer from on-going pain related to chewing with no teeth.

Section 4 of Schedule C outlines that the appellant is entitled to the dentures as a *basic dental service*, provided by a denturist, and to a maximum of \$1,000.00 for each two-year period. In the appellant's case, and as was said previously, the two-year period began January 1, 2019 and ends December 31, 2020. The remaining amount available to the appellant was \$261.89.

Section 1 of Schedule C defines "basic dental service[s]" as a dental service set out in the Schedule of Fee allowances, which for the appellant is the Schedule of Fee Allowances – Denturist and is provided at the rate set out in that Schedule.

Section 4(2) of Schedule C outlines that dentures may be provided as a basic dental service only to a person who has never worn dentures, or whose dentures are more than 5 years old.

Section 4(3) of Schedule C provides that the \$1000 limit 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, in three circumstances:

- (1) 4(3)(a) - Where a full upper or lower denture is required because of extractions in the previous 6 months to relieve pain;
- (2) 4(3)(b) - Where a partial denture is required to replace at least 3 missing teeth in a row, at least one of which was extracted in the previous 6 months to relieve pain (4(3)(b)); or
- (3) 4(3)(c) - Where the person has been a recipient of disability assistance for at least 2 years and requires replacement dentures.

Section 4(5) provides that only certain fee codes can be used to go over the \$1000 period limit if sections 4(3)(b) or (c) apply. There is no limiting of applicable fee codes if section 4(3)(a) applies.

The panel finds that the evidence establishes the appellant had \$261.89 remaining of the \$1,000.00 afforded to them for the two-year period as set out in the legislation. In the appellant's case, that period began on January 1, 2019 and ended December 31, 2020. The panel finds that the evidence establishes that the ministry applied section 4(3) to allow for the maximum amounts offered in the Schedule of Fee Allowances – totaling \$1,125.00 and leaving \$1,475.00 as the patients portion of the total denture cost (\$2,600.00).

Accordingly, the panel finds that the Ministry reasonably applied section 4 of Schedule C in the circumstances of the appellant.

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 is therefore not successful in this appeal.

APPEAL NUMBER
2020-00289

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)

2021-02-02

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-02-02

PRINT NAME

Robert McDowell

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-02-02