

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated February 19, 2021, which denied coverage for certain dental services. Specifically, in accordance with the definitions in Section 1 and 4.1 of Schedule C of the Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), the appellant was not eligible for:

- coverage of requested dental services that are not set out in the Schedule of Fee Allowances- Dentist, the Schedule of Fee Allowances-Emergency Dental-Dentist, or the Schedule of Fee Allowances- Crown and Bridgework;
- coverage of fees in excess of the rates set out in the Schedule, for dental services included in the Schedule of Fee Allowances- Dentist; and,
- coverage of requested dental services that were included in the Schedule of Fee Allowances- Crown and Bridgework as the requirements in Section 4.1(2) of Schedule C of the EAPWDR for the Crown and Bridgework supplement had not been met.

The ministry also determined that the requested dental services could not be provided under Section 57 of the EAPWDR [crisis supplements] or Section 69 of the EAPWDR [life-threatening health need].

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons With Disabilities Regulation (EAPWDR), Sections 57, 63, 63.1, 64, and 69 and Schedule C, Sections 1, 4, 4.1 and 5.

Schedule of Fee Allowances- Dentist; Emergency Dental- Dentist; Crown and Bridgework.

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 Employment and Assistance Act.

The evidence before the ministry at the time of the reconsideration decision consisted of:

- 1) Print out of X-rays showing a tooth missing on the jaw bone;
- 2) Standard Dental Claim Form dated August 18, 2020 in which the appellant made a claim for various dental services with the total fee submitted of \$4,910.35;
- 3) Statement dated September 4, 2020 indicating a service description of “Retainers, Full, Cast Metal- 67301” for tooth 47, a total claimed amount of \$1,250 and with an eligible amount of nil. The notes included instructions to provide:
 - A periapical x-ray of tooth involved (must be within 1 year);
 - The date and condition of any existing prostheses and teeth involved. If no existing prostheses, indicate the length of time teeth have been missing.
 - Explanation as to the necessity for crown/bridge requests, why treatment requests cannot be met through the basic dental program.
 - Relevant information regarding the client’s medical condition that would support the need for crown or bridge.
- 4) Statement dated September 4, 2020 indicating a service description of “Pontics, Cast Metal- 62101” for tooth 46, a total claimed amount of \$751 and with an eligible amount of nil.
- 5) Statement dated September 4, 2020 indicating a service description of “Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base- 67211” for tooth 45, a total claimed amount of \$1,250 and with an eligible amount of nil.
- 6) Statement dated September 4, 2020 indicating a service description of “Periodontal, Maxillary Appliance- 14611,” a total claimed amount of \$409.35 and with an eligible amount of \$244.35.
- 7) Statement dated September 4, 2020 indicating a service description of “Crown, Porcelain/Ceramic/Polymer Glass- 27201” for tooth 26, a total claimed amount of \$1,250 and with an eligible amount of nil. and,
- 8) Request for Reconsideration dated February 11, 2021.

In the Request for Reconsideration, the appellant’s information included the following:

- The appellant has not been able to eat on the left side for over a year. It hurts with cold or, if the appellant tries to chew on that side, pain shoots through the appellant’s gums.
- The appellant also has a tooth on the right side missing, which makes it hard to eat.
- The appellant did not know that the dentist had not filled out the forms properly. The appellant would not use the same dentist if the services are approved since they have proven they do not follow through with things.

On August 26, 2020 PBC made a pre-determination of coverage for dental services summarized in the following table:

Item #	Tooth	Fee Code	Description	Dentist Fee	Approved
1		14611	Periodontal, Maxillary Appliance	\$409.35	\$244.35
2	26	27201	Crown, Porcelain/Ceramic/Polymer Glass	\$1,250	0
3	45	67211	Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	\$1,250	0
4	46	62101	Pontics, Cast Metal	\$751	0
5	47	67301	Retainers, Full, Cast Metal	\$1,250	0
			TOTAL	\$4,910.35	\$244.35

Additional information

In the Notice of Appeal dated February 23, 2021, the appellant expressed disagreement with the ministry decision and wrote that:

- The appellant has a tooth that is broken off and nerve damage on the teeth around it. It is very painful and, with waiting, means that the tooth will become infected and will get worse over time. This will be very uncomfortable now and later on.
- The teeth involved have been fixed as much as possible and now need a crown to fix them properly so the appellant is able to eat on both sides as opposed to just the one side.

Prior to the hearing, the appellant provided additional documents including:

- 1) An email dated March 2, 2021 in which the appellant attached a letter and pictures and X-rays from the dentist and the appellant wrote:
 - If the panel members were not able to eat on one side for over a year, they would likely want their teeth fixed.
 - If the appellant could afford the cost of the dental services, the appellant would have the work done but the appellant cannot afford \$4,900 for dentist work.
- 2) Photo showing a tooth with a large piece of the tooth missing and another photo showing an area of the jaw with an entire tooth missing.
- 3) Two X-rays showing the missing tooth and one X-ray showing the tooth with a large piece of the tooth missing.
- 4) Letter in which the dentist wrote that the photograph and X-rays are of the area. The dentist also wrote:
 - The reason they would like to have a crown completed on the 26 is due to the size of the existing composite restoration and the existing fracture of the MB cusp. These carry a guarded prognosis for short to medium term restoration with direct composite or amalgam.
 - Having full coverage protection with a crown would help to protect the remaining tooth structure and allow confident function on the tooth.

- The primary reason for a fixed bridge on the lower right quadrant is to replace the missing 46.

Prior to the hearing, the ministry provided a letter dated March 19, 2021 and wrote:

- The requirement of Schedule C, Section 4.1(2)(a) of the EAPWDR may be met with the information from the dentist explaining the reason for a crown and the 'guarded prognosis for short to medium term restoration' and that the primary reason for a fixed bridge is to replace missing tooth #46.
- However, the ministry is not satisfied that the dentist explains why a removable prosthetic could not be used for one of the permitted reasons under Schedule C, Section 4.1(2)(b) of the EAPWDR.
- The ministry is only authorized to provide coverage for dental services set out in the Schedule of Fee Allowances- Dentist; Emergency Dental, and Crown and Bridgework and the appellant's request for the crown (Fee Code 27201) is not set out on any of the Schedules.

Admissibility of Additional Information

The ministry did not object to the admissibility of the additional documents provided by the appellant and referred to the information provided by the appellant in the ministry's submission. The panel considered the additional documents provided by the appellant and admitted them in accordance with Section 22(4) of the *Employment and Assistance Act* on the basis that the information directly relates to the request for funding for specific dental services for the appellant and is, therefore, reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

The panel considered the information in the ministry's letter dated March 19, 2021 as part of the ministry's arguments and will be addressed in Part F- Reasons for Panel Decision, below.

PART F – REASONS FOR PANEL DECISION

The issue on the appeal is whether the ministry's reconsideration decision in which the ministry determined that the appellant was not eligible for coverage of requested dental services or for coverage of fees in excess of the rates set out in the Schedule, and the requested dental services could not be provided under Section 57 of the EAPWDR or Section 69 of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the appellant's circumstances.

The applicable sections of the EAPWDR are set out in Appendix A and excerpts of the applicable Fee Schedules are set out in Appendix B at the end of these Reasons.

Ministry's position

The ministry's position is that the legislation sets out limits regarding what dental services are funded and limits on the amount of funding. The ministry maintains that Crown, Porcelain/Ceramic/Polymer Glass, for tooth 26 (Fee Code 27201) is not funded and the maximum amount of funding for the Periodontal, Maxillary Appliance (Fee Code 14611), as set out in the Schedule of Fee Allowances- Dentist, has been approved and there is no ability to provide funding at the dentist's higher rate. Regarding the crown and bridgework found on the Schedule of Fee Allowances- Crown and Bridgework, the ministry's position is that the requirements of Section 4.1(2) of Schedule C of the EAPWDR have not been met.

Specifically, the ministry was not satisfied that the appellant has a dental condition that cannot be corrected through the provision of basic dental services because the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances- Dentist. In the reconsideration decision, the ministry also wrote that the information provided by the appellant does not establish that the appellant is unable to use a removeable prosthetic (e.g. denture) for one of the listed reasons.

In the submission on appeal, the ministry wrote that the information provided by the dentist on appeal may meet the requirement of Section 4.1(2)(a) of Schedule C of the EAPWDR that the appellant has a dental condition that cannot be corrected through the provision of basic dental services because the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances- Dentist. However, the ministry was still not satisfied that the dentist explains why the appellant could not use a removable prosthetic for one of the permitted reasons under Section 4.1(2)(b) of Schedule C of the EAPWDR.

The ministry also considered the appellant's request under Section 57 of the EAPWDR [crisis supplements] and Section 69 of the EAPWDR [life-threatening health need] and found that neither section allowed for the provision of dental services.

Appellant's position

In the Notice of Appeal, the appellant wrote that the appellant has a tooth that is broken off and with nerve damage on the teeth around it. The appellant wrote that it is very painful and waiting means that the tooth will become infected and will get worse over time. The appellant wrote that the teeth involved have been fixed as much as possible and now need a crown to fix them properly so the appellant is able to eat on both sides as opposed to just the one side.

In the submission on appeal, the appellant wrote that If the panel members were not able to eat on one side for over a year, they would likely want their teeth fixed. In the Request for Reconsideration, the appellant wrote that the appellant has not been able to eat on the left side for over a year, that it hurts with cold or pain shoots through the appellant's gums if the appellant tries to chew on that side. The appellant wrote that there is a tooth missing on the right side, which makes it hard to eat.

The appellant wrote in the submission that the appellant cannot afford \$4,900 for dentist work. The appellant provided a letter in which the dentist explained that the reason they would like to have a crown completed on tooth 26 is "due to the size of the existing composite restoration and the existing fracture of the MB cusp." The dentist wrote that "these carry a guarded prognosis for short to medium term restoration with direct composite or amalgam" and "having full coverage protection with a crown would help to protect the remaining tooth structure and allow confident function on the tooth." The dentist wrote that "the primary reason for a fixed bridge on the lower right quadrant is to replace the missing tooth 46."

Panel decision

The ministry determined that the appellant is a Person With Disabilities (PWD) in receipt of disability assistance and, therefore, is eligible for coverage for basic dental services, emergency dental services, and crown & bridgework, in accordance with Sections 63, 63.1 and 64 of the EAPWDR and Schedule C, Sections 1, 4, 4.1 and 5. The ministry wrote that the appellant submitted a dental Claim Form dated August 18, 2020 in which the appellant made a claim for various dental services with the total dentist fee submitted of \$4,910.35. The request was processed by Pacific Blue Cross (PBC), to which the ministry has delegated its powers, duties and functions respecting dental supplements in accordance with Section 25 of the Employment and Assistance for Persons With Disabilities Act (EAPWDA). In reviewing the eligibility for the particular dental services requested by the appellant, PBC approved the amount of \$244.35 as eligible dental services and denied coverage of the balance of services and fees requested.

The panel reviewed the conclusion made by PBC for each requested dental service, as set out in the Table provided and set out in the Statement of Facts, to consider the ministry's reasonableness in confirming these determinations and denying coverage for some of the requested costs and services.

Item #1- Periodontal, Maxillary Appliance (Fee Code 14611)

For item #1, the appellant's request was for coverage of dental services to be provided by a dentist and described as "Periodontal, Maxillary Appliance" with a Fee Code of 14611 and a total claimed amount of \$409.35. The ministry considered the appellant's eligibility for funding under Section 64 of the EAPWDR for emergency dental services and Section 1 of Schedule C of the EAPWDR defines "emergency dental service" to mean a 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 that is effective September 1, 2017 and is published on the website of the minister. After review of the Schedule, the panel concluded that the ministry reasonably determined that the Schedule does not list "Periodontal, Maxillary Appliance" with Fee Code 14611.

The ministry found that the appellant was eligible for funding for this dental service under Section 63 of the EAPWDR for basic dental services; however, even when someone is eligible to receive the dental service, there are limits to the amount of funding. Specifically, Section 1 of Schedule C of the EAPWDR defines "basic dental service" to mean a dental service that, if provided by a dentist, 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 is provided at the rate set out in that Schedule for the service and the category of person receiving the service* [emphasis added]. In a review of the Schedule of Fee Allowances- Dentist, the panel finds that the ministry accurately identified the dental service and the category of person receiving the service to determine the adult fee of \$244.35 and the panel notes the Schedule was last updated over 3 years ago, in 2017, and specifies that this fee is "inclusive of lab fees and the cost of study models." Although the dentist's fee for the "Periodontal, Maxillary Appliance" is \$409.35, the Schedule of Fee Allowances- Dentist sets the maximum fee rate at \$244.35. As the ministry has no discretion and must apply the legislation, the panel finds that the ministry was reasonable in determining that the funding for Item #1- Periodontal, Maxillary Appliance (Fee Code 14611) was limited to \$244.35 and the appellant was not eligible for funding at the higher dentist's rate.

Item #2- Crown, Porcelain/Ceramic/Polymer Glass, for tooth 26 (Fee Code 27201)

For item #2, the appellant's request was for coverage of dental services to be provided by a dentist and described as Crown, Porcelain/Ceramic/Polymer Glass, for tooth 26 with a Fee Code of 27201 and a dental fee of \$1,250. In the Request for Reconsideration, the appellant wrote that the appellant has not been able to eat on the left side for over a year, that it hurts with cold or pain shoots through the appellant's gums if the appellant tries to chew on that side. The dentist wrote in the letter provided on appeal that the reason they would like to have a crown completed on tooth 26 is "due to the size of the existing composite restoration and the existing fracture of the MB cusp."

The ministry considered the appellant's eligibility for funding under Section 63 of the EAPWDR for basic dental services and Section 1 of Schedule C of the EAPWDR defines "basic dental service" to mean a dental service that, if provided by a dentist, 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. The ministry also considered the appellant's eligibility for funding under Section 64 of the EAPWDR for emergency dental services and Section 1 of Schedule C defines "emergency dental service" to mean a 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 that is effective September 1, 2017 and is published on the website of the ministry of the minister. The ministry considered the appellant's eligibility for funding under Section 63.1 of the EAPWDR for crown and bridgework and Section 4.1(1) of Schedule C of the EAPWDR defines "crown and bridgework" to mean a dental service that is provided by a dentist and 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. On appeal, the ministry reiterated the position that the ministry is only authorized to provide coverage for dental services set out in the Schedule of Fee Allowances- Dentist; Emergency Dental- Dentist, and Crown and Bridgework and the appellant's request for the Crown (Fee Code 27201) is not set out on any of the Schedules.

Following review of the Schedule of Fee Allowances- Dentist and the Schedule of Fee Allowances- Emergency Dental- Dentist, the panel finds that the ministry reasonably determined that these Schedules do not list "Crown, Porcelain/Ceramic/Polymer Glass" with a Fee Code of 27201. On the Schedule of Fee Allowances- Crown and Bridgework, the panel notes that there is a fee description for "Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base" listed with Fee Code 27211 that provides the sum of \$624.20 as a fee amount, including lab fee. As the fee description in the Schedule includes "fused to metal base" and a fee code of "27211" rather than the requested "27201," the panel concluded that the ministry reasonably determined that the Schedule of Fee Allowances- Crown and Bridgework does not list "Crown, Porcelain/Ceramic/Polymer Glass" with a Fee Code 27201. Therefore, despite the need to have this dental service completed due to pain and the extent of damage to the tooth, as detailed by the appellant and the dentist, the ministry cannot provide coverage for the requested dentist fee of \$1,250 for the crown as a basic dental, emergency dental, or crown and bridgework supplement.

Items #3, 4 and 5- Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base, for tooth 45 (Fee Code 67211), Pontics, Cast Metal for tooth 46 (Fee Code 62101), and Retainers, Full, Cast Metal for tooth 47 (Fee Code 67301)

For items #3, 4 and 5, the appellant's request was for coverage of dental services to be provided by a dentist and described as Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base, for tooth 45 (Fee Code 67211), Pontics, Cast Metal for tooth 46 (Fee Code 62101), and Retainers, Full, Cast Metal for tooth 47 (Fee Code 67301). The ministry considered the appellant's eligibility for funding under Section 63 of the EAPWDR for basic dental services and

Section 1 of Schedule C of the EAPWDR defines "basic dental service" to mean a dental service that, if provided by a dentist, is set out in the Schedule of Fee Allowances- Dentist. The ministry also considered the appellant's eligibility for funding under Section 64 of the EAPWDR for emergency dental services and Section 1 of Schedule C defines "emergency dental service" to mean a 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. Following review of these Schedules, the panel concluded that the ministry reasonably determined that these Schedules do not list "Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base" with a Fee Code of 67211, "Pontics, Cast Metal" with a Fee Code of 62101, or "Retainers, Full, Cast Metal" with a Fee Code of 67301 and the panel finds that the ministry reasonably concluded that the appellant is not eligible for coverage of these dental services as a basic dental or emergency dental supplement.

The ministry also considered the appellant's eligibility for funding under Section 63.1 of the EAPWDR for crown and bridgework and Section 4.1(1) of Schedule C of the EAPWDR defines "crown and bridgework" to mean a dental service that is provided by a dentist and 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. In the reconsideration decision, the ministry noted that the dentist originally requested a Porcelain Pontics on tooth 46 (Fee Code 62501) and a Porcelain Retainer (Fee Code 67211) on tooth 47 but since a note in the Schedule of Fee Allowances- Crown and Bridgework says that *only full cast metal* Pontics and Retainers will be provided for tooth numbers ending in 6, 7 and 8, PBC assessed the full cast metal option for these services. The Standard Dental Claim Form dated August 18, 2020, in which the appellant made a claim for various dental services, a fee code of "62501" is listed for tooth 46 and a fee code of "67211" for tooth 47 and, following a review of the Schedule of Fee Allowances- Crown and Bridgework, the panel finds that the Schedule includes a note pertaining to Bridges (both Retainers and Pontics) that "only full cast metal retainers and pontics will be considered on tooth numbers 6, 7, and 8." As the Schedule precludes provision of a porcelain Pontics and a porcelain Retainer for these teeth, the panel finds that the ministry reasonably considered the full cast metal options for tooth 46 and tooth 47.

Following a review of the Schedule, the panel finds that the ministry reasonably determined that the Schedule of Fee Allowances- Crown and Bridgework lists the requested services as Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base (Fee Code 67211), Pontics, Cast Metal (Fee Code 62101), and Retainers, Full, Cast Metal Fee (Fee Code 67301). The ministry found, however, that there was insufficient information to establish that the two requirements in Section 4.1(2)(a) and (b) of Schedule C of the EAPWDR had been met and, therefore, the appellant was not eligible for the dental services as a crown and bridgework supplement.

Section 4.1(2)(a) of Schedule C of the EAPWDR provides that 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 the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances — Dentist. The panel notes that the statements dated September 4, 2020 indicated instructions to the dentist to provide additional information, including an explanation as to the necessity for crown/bridge requests, why treatment requests cannot be met through the basic dental program, and relevant information regarding the client's medical condition that would support the need for crown or bridge. In the Request for Reconsideration, the appellant wrote that the appellant has not been able to eat on the left side for over a year, that pain shoots through the appellant's gums if the appellant tries to chew on that side, and there is a tooth missing on the right side, which makes it hard to eat. The appellant also wrote that the appellant was unaware that the dentist had not filled out the forms properly and the appellant was frustrated due to a lack of follow through by the dentist.

In the Notice of Appeal, the appellant wrote that the appellant has a tooth that is broken off with nerve damage on the teeth around it and that the teeth involved have been fixed as much as possible and now need a crown to fix them properly so the appellant is able to eat on both sides. Prior to the hearing, the appellant provided a letter in which the dentist explained that the reason they would like to have a crown completed on tooth 26 is "due to the size of the existing composite restoration and the existing fracture of the MB cusp." The dentist also wrote that "these carry a guarded prognosis for short to medium term restoration with direct composite or amalgam" and "having full coverage protection with a crown would help to protect the remaining tooth structure and allow confident function on the tooth." The dentist wrote that "the primary reason for a fixed bridge on the lower right quadrant is to replace the missing tooth 46." On appeal, the ministry wrote in its submission that the new information provided by the dentist may meet the requirement of Section 4.1(2)(a) of Schedule C of the EAPWDR.

While the dentist's comments regarding a "guarded prognosis for short to medium term restoration" relate to tooth 26 and the request for funding for of a crown on this tooth as requested by the dentist is not on the Schedule, as previously discussed, Section 4.1(2)(a) requires that the person's "dental condition" cannot be corrected through the provision of basic dental services because the dental condition precludes the provision of restorative services. Regarding the appellant's dental condition, the appellant wrote in the Request for Reconsideration that the appellant has not been able to eat properly for a year and the teeth "have been fixed as much as possible." The information from the dentist is that there is already a large restoration and fracture on the tooth on the left side (#26) with a "guarded prognosis" for further restoration and the need for a crown for confident function on the tooth as well as the need to replace the missing tooth on the right side. The X-rays show a tooth completely missing on the jaw bone on the right side and the panel finds that there is no tooth on which to provide "restorative" services at the place for tooth 46. Given the information from the appellant and the new information from the dentist as well as the ministry's submission on appeal, the panel finds

that the ministry's conclusion that the requirement in Section 4.1(2)(a) of Schedule C of the EAPWDR had not been met was unreasonable.

In the reconsideration decision, the ministry also found that the other requirement in Section 4.1(2)(b) of Schedule C of the EAPWDR had not been met. The ministry was not satisfied that the appellant has a dental condition that cannot be corrected through the provision of basic dental services because 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 the person 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; or, (iv) the person has a mental condition that makes it impossible for the person to assume responsibility for a removable prosthetic. There was no information provided by the appellant or the dentist to indicate that the appellant has a physical impairment (ii), an allergic reaction (iii), or a mental condition (iv) that would make it impossible for the appellant to use a removable prosthetic. The circumstance set out in sub-section 4.1(2)(b)(i) of Schedule C of the EAPWDR requires the ministry to be satisfied that the appellant's dental condition "precludes the use of a removable prosthetic."

On appeal, the ministry reiterated the position that the ministry is not satisfied that the dentist explains why a removable prosthetic could not be used for one of the permitted reasons under Schedule C, Section 4.1(2)(b) of the EAPWDR. In the letter provided on appeal, the dentist wrote that the primary reason for a fixed bridge on the lower right quadrant is "to replace the missing 46." The dentist prescribed a Pontics and Retainers for teeth numbers 45, 46, and 47 to provide a "fixed bridge," or a permanent replacement to the missing tooth 46; however, the dentist does not address the question whether tooth 46 might also be satisfactorily replaced on the lower right quadrant through the use of a removable prosthetic, even if this may be a less permanent solution.

In the absence of further information to explain why the removable prosthetic is not an option in the appellant's circumstances, the panel finds that the ministry reasonably determined that the requirement in Section 4.1(2)(b) of Schedule C of the EAPWDR had not been met. Therefore, the panel finds that the ministry reasonably concluded that the request for the Retainers, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base, for tooth 45 (Fee Code 67211), Pontics, Cast Metal for tooth 46 (Fee Code 62101), and Retainers, Full, Cast Metal for tooth 47 (Fee Code 67301) does not meet one of the requirements of Section 4.1(2), as set out in sub-section 4.1(2)(b) of Schedule C of the EAPWDR, and the appellant is not eligible for these dental services as a crown and bridgework supplement.

Eligibility for dental services as a crisis supplement or a health supplement for an imminent life-threatening need

The ministry also considered whether the appellant was eligible for the requested funding for the

dental services under Section 57 [crisis supplement] and Section 69 [health supplement to meet a direct and imminent life-threatening need] of the EAPWDR. Section 57(3) states that a crisis supplement may not be provided for a supplement described in Schedule C or any other health care goods or services. As dental services are considered health care goods or services, whether or not they are described in Schedule C, the panel finds that the ministry was reasonable in concluding that the appellant was not eligible for the requested funding under Section 57 of the EAPWDR.

Section 69 of the EAPWDR provides for some health supplements listed under Sections 2 and 3 of Schedule C [specifically medical supplies, medical transportation and medical equipment and devices] when the person is not otherwise eligible and the person faces a direct and imminent life-threatening need. Dental supplements (Section 4) and crown and bridgework supplements (Section 4.1) in Schedule C are not included in the health supplements listed in Section 69. The panel finds that the ministry reasonably determined that the appellant was not eligible for the requested funding under Section 69 of the EAPWDR.

Conclusion

In conclusion, the panel finds that the ministry's reconsideration decision in which the ministry determined, in accordance with the definitions and requirements in Sections 1 and 4.1 of Schedule C of the EAPWDR, that the appellant was not eligible for coverage of requested dental services or for coverage of fees in excess of the rates set out in the relevant Schedules, and neither Section 57 of the EAPWDR [crisis supplements] nor Section 69 of the EAPWDR [life-threatening health need] allows for the provision of dental services, was a reasonable application of the applicable enactment in the appellant's circumstances. The panel confirms the ministry's reconsideration decision. The appellant's appeal, therefore, is not successful.

Appendix A

Section 25 of the EAPWDA provides for delegation by the ministry as follows:

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.

Section 57 of the EAPWDR sets out the requirements for a crisis supplement as follows:

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, or
 - (ii) removal of a child under the Child, Family and Community Service Act.
- (2) A crisis supplement may be provided only for the calendar month in which the application or request for the supplement is made.
- (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. . . .

Section 63(a) of the EAPWDR sets out a person's eligibility for a basic dental supplement as follows:

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 . . .

Section 63.1(a) of the EAPWDR sets out a person's eligibility for a crown and bridgework supplement as follows:

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 . . .

Section 64 of the EAPWDR sets out a person's eligibility for an emergency dental supplement as follows:

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 . . .

Section 69(1) of the EAPWDR provides a health supplement for persons facing life-threatening health need as follows:

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, and if the minister is satisfied that
(a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,
(b) the health supplement is necessary to meet that need,
(c) the adjusted net income of any person in the family unit, other than a dependent child, does not exceed the amount set out in section 11 (3) of the Medical and Health Care Services Regulation, and
(d) the requirements specified in the following provisions of Schedule C, as applicable, are met:
(i) paragraph (a) or (f) of section (2) (1);
(ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

Schedule C of the EAPWDR sets out:

Health Supplements

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 . . .

"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 . . .

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 the person 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 the person 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.

Appendix B

Schedule of Fee Allowances- Dentist

Appliances, periodontal (bruxing or occlusal guard).

Note: Fees 14611 and 14612 are inclusive of lab fees and the cost of study models. Patients are limited to one guard (either 14611 or 14612) in any five-year period. Patients that have upper and/or lower complete dentures are not eligible for these fee items.

Fee No.	Fee Description	Adult	Child
14611	Maxillary	244.35	287.15
14612	Mandibular	244.35	287.15

Schedule of Fee Allowances- Crown and Bridgework

CROWNS

Note: Limited to one per tooth in a five-year period. Only full cast metal crowns will be considered on tooth numbers 6, 7, and 8.

Fee No.	Fee Description	Fee Amount (\$)
27301	Crown, Full Cast Metal	*539.90
27211	Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	*624.20
27213	Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base with Porcelain Margin	*624.20

BRIDGES

Note: Limited to one per tooth in a five-year period. Only full cast metal retainers and pontics will be considered on tooth numbers 6, 7, and 8.

Fee No.	Fee Description	Fee Amount (\$)
<u>Retainers:</u>		
67211	Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	*623.30
67301	Full, Metal Cast	*562.81

Pontics:

62101	Cast Metal	*313.75
62501	Porcelain/Ceramic/Polymer Glass, Fused to Metal Base	*372.75

[*Denotes Lab fee(s) included]

APPEAL NUMBER
2021-00044

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

S. Walters

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021-03-30

PRINT NAME

Robert Kelly

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-03-30

PRINT NAME

Jeremy Scott

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021-03-30