

APPEAL NUMBER
2021-00051

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction ("ministry") reconsideration decision dated February 25, 2021 in which the ministry determined that the appellant was not eligible for coverage of orthodontic treatment for their minor dependent.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation - Sections 57, 62, 63, 63.1, 64, 65 and 69

Employment and Assistance for Persons with Disabilities Regulation, Schedule C - Sections 1, 4, 4.1, and 5

PART E – SUMMARY OF FACTS

The appellant is an adult parent who is appealing on behalf of their minor dependent. The appellant and minor dependent are part of the same family unit for the purposes of ministry benefits, funding and subsidies.

In January 2021 Pacific Blue Cross (PBC), acting on behalf of the ministry in accordance with delegated decision making powers, found the appellant ineligible for coverage for an orthodontic treatment plan for the minor dependent.

In February 2021 the appellant sought reconsideration of the decision denying coverage for an orthodontic treatment plan for the minor dependent. In her request for reconsideration, dated February 17, 2021, the appellant argued against the ineligibility decision. The appellant argued that the orthodontic care is essential and necessary because the minor dependent is in pain every day and has multiple medical and developmental diagnoses, the symptoms of which are exacerbated by dental pain. The appellant also provided information about her own medical and dental needs and details of past harms suffered by the appellant's family. The appellant included several documents with the request for reconsideration, including: confirmation of the PBC denial; an Orthodontia Request form; X-rays and photos of the minor dependent's head and mouth; and an Orthodontia Treatment Plan from the treating orthodontist.

The appellant also included documents relating to her own dental needs that are not related to this appeal.

In February 2021, prior to the reconsideration decision, the ministry requested information from PBC, including medical justification for the orthodontic treatment plan and the assessment provided by PBC's orthodontic consultant.

On February 25, 2021 the ministry issued its reconsideration decision.

Additional information before the panel on appeal consisted of the following:

Notice of Appeal

In the Notice of Appeal dated March 5, 2021, the appellant argued that the minor dependent does need braces and this is essential because of the minor dependent's other disabilities. The appellant stated that the minor dependent's other parent has agreed to pay for half of the cost and that she is trying to secure funding from other sources as well. With the Notice of Appeal, the appellant included two documents from the treating orthodontist. One document is a duplicate of the orthodontic treatment plan provided at reconsideration and the other is an updated fee schedule for that treatment plan, reduced to reflect the partial payment made by the minor dependent's other parent.

Appeal Submissions

The appellant provided two documents in the appeal submission; both are letters from the family doctor. In one letter, the family doctor describes the minor dependent's diagnoses, states that the treating orthodontist has determined that corrective orthodontic treatment is necessary to alleviate chronic jaw and facial pain and expresses the family doctor's own opinion that this treatment will alleviate and prevent chronic pain. In the second letter, the family doctor discusses the appellant's dental needs, which are not related to this appeal.

At the hearing, the appellant provided information about the daily difficulties experienced by the minor dependent and the ways that the unmet orthodontic needs make the situation more difficult. The appellant argued that there is a need to consider and assess the situation of the minor dependent globally, considering all of their diagnoses, rather than relying on a numeric metric set out in the legislation. She argued that while the minor dependent is likely to experience increased jaw displacement to the point where the legislated requirements are expected to be eventually met, the interim suffering for the minor dependent and the whole family is too great. The appellant testified that the difficulty and duration of orthodontic treatment will also increase with the passage of time. The appellant also provided testimony about the family's financial situation and the difficulty she will have paying for the orthodontic treatment without ministry assistance. The appellant explained some of the traumas the family has experienced in the past and her desire to reduce further hardships for the minor dependent and the entire family.

The ministry relied on the reconsideration decision.

Admissibility

The panel finds that the information provided in the appellant's Notice of Appeal consisted of argument and does not contain any new information requiring an admissibility determination in accordance with section 22(4)(b) of the *Employment and Assistance Act*. The documents included with the Notice of Appeal are admissible as they relate directly to the benefit sought, one of these documents is already in evidence as it was provided at reconsideration. The family doctor's letter relating to the minor dependent is admissible as it speaks to the treatment for which the appellant sought coverage and includes the doctor's medical opinion about the need for that treatment.

The family doctor's letter relating to the appellant's dental needs is not admissible because questions relating to the appellant's own dental needs are not the subject of this appeal.

PART F – REASONS FOR PANEL DECISION

The issue on appeal is whether the ministry's determination, that the appellant was not eligible for coverage of orthodontic treatment for their minor dependent, is reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

Legislation

The applicable legislative provisions are reproduced in Appendix A.

Analysis

On appeal, the panel must, in accordance with section 24 of the *Employment and Assistance Act* (EAA), determine whether the decision under appeal is reasonably supported by the evidence, or a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

The ministry determined at reconsideration that the appellant was not eligible for the required orthodontic treatment for their minor dependent. The ministry, as is their practice, considered several benefits, supplements and funding provisions at reconsideration prior to confirming that the appellant is not eligible for coverage.

Eligibility for the Requested Orthodontic Treatment as an Orthodontic Supplement

The ministry first considered the orthodontic supplement at section 65 of the *Employment and Assistance for Persons with Disabilities Regulation* (EAPWDR) and found the appellant ineligible because the legislated requirements were not met.

EAPWDR Section 65 (2)(a) says that coverage of orthodontic supplements may be provided to a child under 19 years of age if the child has severe skeletal dysplasia with jaw misalignment by 2 or more standard deviations.

The ministry found that the evidence does not establish that the minor dependent has severe skeletal dysplasia or jaw misalignment of two or more standard deviations. In reaching this conclusion the ministry referred to both the treating orthodontist's report and that of the PBC consulting orthodontist. The ministry noted that neither criterion was confirmed by either of the orthodontists. The Ministry concluded that the evidence did not establish that the minor dependent required orthodontic treatment due to severe skeletal dysplasia with jaw misalignment of two or more standard deviations.

Eligibility for the Requested Orthodontic Treatment as a Basic Dental Service or Emergency Dental Service

The ministry next considered whether the minor dependent's orthodontic treatment could be funded as a basic or emergency dental supplement, in accordance with EAPWDR sections 63 and 64 and Schedule C.

EAPWDR Section 63 and Schedule C, Sections 1 and 4 state that the ministry may provide coverage for emergency dental services as set out in Section 64 and Schedule C, Sections 1 and 6 of the EAPWDR. The EAPWDR defines emergency dental services to mean a dental service necessary for the immediate relief of pain at the rate set out in the *Schedule of Fee Allowances - Emergency Dental – Dentist* for the service and the category of the person receiving the service.

The ministry concluded that it is not authorized to cover orthodontic treatment as a basic or emergency

dental service and there is no legislative grant of discretion to the ministry that would permit any exception to be made.

Eligibility for Coverage as a Life-Threatening Health Need

The ministry went on to consider whether the orthodontic treatment could be funded as a life-threatening health need under section 69 of the EAPWDR and concluded it could not.

EAPWDR Section 69 says that the minister may provide general health supplements and medical equipment and device if the minister is satisfied of the need for a health supplement to meet a direct and imminent life threatening need for which there are no resources available.

The ministry determined that section 69 applies only to specifically listed medical transportation, medical equipment, medical devices, medical supplies and further found that dental and denture supplements are not included or contemplated.

Eligibility for coverage of dental services as a crisis supplement

Finally, the ministry considered whether it could provide funding for the minor dependent's orthodontic treatment as a crisis supplement as contemplated in section 57 of the EAPWDR.

EAPWDR Section 57 permits the provision of a crisis supplement where the supplement is required to meet an unexpected expense or obtain an item unexpectedly needed, there are no resources available to the family unit to meet the expense or need, and failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family unit. Section 57(3) states that a crisis supplement is not available for supplements described in Schedule C or other health care goods or services.

The ministry found that it could not fund a crisis supplement because section 57(3)(a) and (b) expressly prohibit the provision of a crisis supplement for a supplement described in Schedule C or for any other health care goods or services. Orthodontic care is a health care service and described in Schedule C.

The appellant's arguments and submissions do not specifically address the legislative requirements for each of the benefits, supplements and funding provisions discussed in the reconsideration decision. The appellant argues that the minor dependent is just one digit below what the legislation requires, with respect to the orthodontic supplement, and that the legislation generally fails to allow for an individualized and holistic assessment of need for people with disabilities. The appellant argued that this orthodontic treatment is necessary to alleviate pain, headaches, lockjaw and other directly related symptoms for the minor dependent; and, in the context of the minor dependent's other disabilities, this treatment is also essential to prevent the cascading effect of these symptoms, which include behavioral impacts and increased functional difficulty on a daily basis. The appellant argues that waiting until legislated criteria are met, as the minor dependent grows, is not an option for the minor dependent or the family. Not only would waiting prolong the minor dependent's suffering, it would also increase the cost and duration of the orthodontic treatment needed. The appellant argued that she has been working successfully to secure partial funding via other mechanisms and was not looking for full coverage from the ministry.

With tremendous sympathy for the position of the appellant and the minor dependent, the panel finds that the Ministry's decision at reconsideration is both reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel finds that the evidence and argument clearly demonstrate a situation of need for the minor dependent, who already faces significant barriers due to complex developmental and medical diagnoses. Despite this apparent

need, the legislated benefits scheme does not, as the appellant insightfully observed, allow for the totality of an individual's needs to be considered and assessed in determining whether they qualify for a particular benefit, supplement or subsidy. It is in the context of this arguably imperfect regime that the panel must assess the reasonableness of the ministry's reconsideration decision in light of the legislated requirements and restrictions.

The panel notes that the legislated benefits scheme contemplates funding for orthodontic treatment only in very narrow circumstances. The panel finds, according to the evidence presented in both the treating and consulting orthodontic reports, that the minor dependent does not, at the date of the reports, meet the required circumstances to qualify for an orthodontic supplement. The evidence indicates "little skeletal dysplasia" rather than the required severe skeletal dysplasia. The evidence does not include any information about jaw misalignment in relation to standard deviation metrics. Because there is no grant of discretion in the regulation that would permit the ministry, or PBC, to engage in a holistic or forward-looking assessment of need for an individual, each required circumstance or criterion is assessed in an absolute way. In other words, one is not eligible for the subsidy unless each of the requirements is clearly met. The appellant's argument that the minor dependent would meet those criteria eventually, if left suffering, is not something the legislation allows a decision maker to contemplate. The panel finds the ministry's conclusion to be reasonable in the circumscribed legislative context in which it was made.

The panel further finds that the orthodontic treatment needed by the minor claimant does not fall into the other categories of benefits considered by the ministry. The treatment required, which entails the application and maintenance of orthodontic braces over an extended period, is not in the nature of basic or emergency treatment as described in the regulation. There is no evidence on the record, at reconsideration or on appeal, to suggest that the minor dependent is facing a "direct and imminent life threatening need" as required for the benefit contemplated by section 69. Furthermore, orthodontic funding is not available under this provision. Finally, the crisis supplement provisions specifically prevent the issuance of a crisis supplement for health care goods or services. The panel finds the ministry's conclusions in relation to each of these benefits is both reasonably supported by the evidence or a reasonable application of the legislation in the circumstances of the appellant.

Conclusion

The panel finds that the ministry's reconsideration decision was reasonably supported by the evidence and a reasonable application of the legislation in the circumstances of the appellant. The panel confirms the ministry's reconsideration decision. The appellant is not successful on appeal.

Appendix A

Employment and Assistance for Persons with Disabilities Regulation - Sections 57, 62, 63, 63.1, 64, 65 and 69

Employment and Assistance for Persons with Disabilities Regulation, Schedule C - Sections 1, 4, 4.1, and 5

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.
- (4) A crisis supplement provided for food, shelter or clothing is subject to the following limitations:
- (a) if for food, the maximum amount that may be provided in a calendar month is \$40 for each person in the family unit;
 - (b) if for shelter, the maximum amount that may be provided in a calendar month is the smaller of
 - (i) the family unit's actual shelter cost, and
 - (ii) the sum of
 - (A) the maximum set out in section 2 of Schedule A and the maximum set out in section 4 of Schedule A, or
 - (B) the maximum set out in Table 1 of Schedule D and the maximum set out in Table 2 of Schedule D,as applicable, for a family unit that matches the family unit;
 - (c) if for clothing, the amount that may be provided must not exceed the smaller of
 - (i) \$100 for each person in the family unit in the 12 calendar month period preceding the date of application for the crisis supplement, and
 - (ii) \$400 for the family unit in the 12 calendar month period preceding the date of application for

the crisis supplement.

(5) and (6) Repealed. [B.C. Reg. 248/2018, App. 2, s. 2.]

(7) Despite subsection (4) (b), a crisis supplement may be provided to or for a family unit for the following:

- (a) fuel for heating;
- (b) fuel for cooking meals;
- (c) water;
- (d) hydro.

[am. B.C. Regs. 13/2003; 248/2018, App. 2; 270/2019, App. 2, s. 14.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4; am. B.C. Reg. 161/2017, App. 2, s. 2.]

Optical supplements

62.1 The minister may provide any health supplement set out in section 2.1 [*optical 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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

Eye examination supplements

62.2 (1) Subject to subsections (2) and (3), the minister may provide a health supplement under section 2.2 [*eye examination 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.

(2) A health supplement under subsection (1) may only be provided to or for a person once in any 24 calendar month period.

(3) A health supplement under subsection (1) may only be provided if payment for the service is not available under the *Medicare Protection Act*.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4; am. B.C. Reg. 161/2017, App. 2, s. 2.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

Denture supplement

63.2 (1) Subject to subsection (2), the minister may provide any health supplement set out in section 4.2 [*denture supplements*] of Schedule C to or for a family unit in receipt of hardship assistance.

(2) A person is not eligible for a health supplement under subsection (1) unless

(a) the person is not eligible for a supplement under section 63 [*dental supplements*], and

(b) the person has had tooth extractions that were performed in the last 6 months because of pain and resulted in the person requiring a full upper denture, a full lower denture or both.

[en. B.C. Reg. 270/2019, App. 2, s. 15.]

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.

[en. B.C. Reg. 145/2015, Sch. 2, s. 4.]

Orthodontic supplement

65 (1) Subject to subsection (2), the minister may provide orthodontic supplements to or for

(a) a family unit in receipt of disability assistance, if the orthodontic supplements are provided to or for a person in the family unit who is

- (i) under 19 years of age, or
- (ii) a person with disabilities, or

(b) a family unit, if the orthodontic supplements are provided to or for a person in the family unit who

(i) is a continued person, and

(ii) meets any of the following criteria:

(A) the person is under 19 years of age;

(B) the person was, on the person's continuation date, a person with disabilities.

(2) For a person referred to in subsection (1) to be eligible for orthodontic supplements, the person's family unit must have no resources available to cover the cost of the orthodontic supplements and the person must

(a) have severe skeletal dysplasia with jaw misalignment by 2 or more standard deviations, and

(b) obtain prior authorization from the minister for the orthodontic supplements.

(2.1) and (2.2) Repealed. [B.C. Reg. 145/2015, Sch. 2, s. 5 (b).]

(3) Repealed. [B.C. Reg. 313/2007, s. 2 (e).]

[am. B.C. Regs. 313/2007, s. 2 (e); 170/2008, App. 2, s. 6; 67/2010, Sch. 2, s. 7; 114/2010, Sch. 2, s. 8; 27/2014, s. 6; 145/2015, Sch. 2, s. 5; 161/2017, App. 2, s. 2.]

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).

(2) For the purposes of subsection (1) (c),

(a) "adjusted net income" has the same meaning as in section 7.6 of the Medical and Health Care Services Regulation, and

(b) a reference in section 7.6 of the Medical and Health Care Services Regulation to an "eligible person" is to be read as a reference to a person in the family unit, other than a dependent child.

[en. B.C. Reg. 61/2010, s. 4; am. B.C. Regs. 197/2012, Sch. 2, s. 8; 145/2015, Sch. 2, s. 12; 180/2019, App. 5, s. 2.]

Schedule C

1 In this Schedule:

"audiologist" means an audiologist registered with the College of Speech and Hearing Health Professionals of British Columbia established under the *Health Professions Act*;

"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, and

(c) if provided by a dental hygienist,

(i) is set out in the Schedule of Fee Allowances — Dental Hygienist 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;

"basic eyewear and repairs" means any of the following items that are provided by an optometrist, ophthalmologist or optician:

(a) for a child who has a new prescription, one pair of eye glasses per year consisting of the least expensive appropriate

(i) single-vision or bifocal lenses, and

(ii) frames;

(b) for any other person who has a new prescription, one pair of eye glasses every 3 years consisting of the least expensive appropriate

(i) single-vision or bifocal lenses, and

(ii) frames;

(c) for a child or other person,

(i) new lenses at any time if an optometrist, ophthalmologist or optician confirms a change in refractive status in either eye,

(ii) a case for new eye glasses or lenses, and

(iii) necessary repairs to lenses or frames that come within this definition;

"change in refractive status" means a change of not less than 0.5 dioptres to the spherical or cylinder lens, or a change in axis that equals or exceeds

(a) 20 degrees for a cylinder lens of 0.5 dioptres or less,

(b) 10 degrees for a cylinder lens of more than 0.5 dioptres but not more than 1.0 dioptre, and

(c) 3 degrees for a cylinder lens of more than 1.0 dioptre;

"dental hygienist" means a dental hygienist registered with the College of Dental Hygienists established under the *Health Professions Act*;

"dentist" means a dentist registered with the College of Dental Surgeons of British Columbia continued under the *Health Professions Act*;

"denture services" means services and items that

(a)if provided by a dentist

- (i) are set out under fee numbers 51101 to 51302 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) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item, and

(b)if provided by a denturist

- (i) are set out under fee numbers 31310 to 31321 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) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item;

"denturist" means a denturist registered with the College of Denturists of British Columbia established under the *Health Professions Act*;

"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;

"eye examination" means a full diagnostic examination of a person's eyes by an optometrist or an ophthalmologist, that includes

(a)a determination of the refractive status of the eyes and of the presence of any observed abnormality in the person's visual system,

(b)any necessary tests connected to making determinations under paragraph (a), and

(c)the provision of a written prescription for lenses if necessary;

"hearing instrument" has the same meaning as in the Speech and Hearing Health Professionals Regulation, B.C. Reg. 413/2008;

"hearing instrument practitioner" means a hearing instrument practitioner registered with the College of Speech and Hearing Health Professionals of British Columbia established under the *Health Professions Act*;

"occupational therapist" means an occupational therapist registered with the College of Occupational Therapists of British Columbia established under the *Health Professions Act*;

"ophthalmologist" means a medical practitioner who practises ophthalmology;

"optician" means an optician registered with the College of Opticians of British Columbia established under the *Health Professions Act*;

"optometrist" means an optometrist registered with the College of Optometrists of British Columbia established under the *Health Professions Act*;

"orthotist" means a person who is certified by and in good standing with the Canadian Board for Certification of Prosthetists and Orthotists;

"pedorthist" means a person who is certified by and in good standing with the College of Pedorthics of Canada;

"physical therapist" means a physical therapist registered with the College of Physical Therapists of British Columbia established under the *Health Professions Act*;

"physical therapy" has the same meaning as in the Physical Therapists Regulation, B.C. Reg. 288/2008;

"pre-authorized eyewear and repairs" means eyewear and repairs provided by an optometrist, ophthalmologist or optician and for which pre-authorization is given by the minister, but does not include basic eyewear and repairs;

"specialist" means a medical practitioner recognized as a specialist in a field of medicine or surgery in accordance with the bylaws made by the board for the College of Physicians and Surgeons of British Columbia under section 19 (1) (k.3) and (k.4) of the *Health Professions Act*.

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.

APPEAL NUMBER
2021-00051

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 Smith

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/03/26

PRINT NAME

Katherine Wellburn

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/03/26

PRINT NAME

Simon Clews

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/03/26