

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated April 26, 2021 which denied the appellant's request for coverage for crown and bridgework (code fee 27211, 23602, 67201 and 62501) because the appellant did not meet the legislative requirements of the Employment and Assistance Persons with Disability Regulation (EAPWDR).

The ministry found that the appellant is a recipient of disability assistance and therefore is eligible for coverage under basic dental services, emergency dental services and crown/bridgework.

The ministry found that the appellant is ineligible for the request because:

- The ministry is unable to provide coverage, for the requested extraction (fee code 71101) for tooth 11, in excess of the ministry rates set in Schedule of Fee Allowances – Dentist.
- The ministry is unable to provide coverage for the requested crown and restoration (fee codes 27211, 23602, 67201) and Pontics (fee code 62501) as a crown and restoration supplement as these particular codes are not set out as Basic Dental Services or Emergency Dental Services in the Schedule of Fee Allowances respectively.
- The ministry is unable to provide coverage for the requested crown and restoration (fee code 67201) as a crown and restoration supplement as this particular code is not set out in the Schedule of Fee Allowances – Crown and Bridgework.
- The ministry found that the request for coverage of Pontics (fee code 62501) on tooth numbers 11 and 21 does not meet the eligibility requirements set out in the EAPWD Regulation, Schedule C, subsection 4.1(2)(b) as not information has been provided as to why the appellant is unable to use a removable prosthetic.
- The ministry is not authorized to provide coverage for dental services under the EAPWDR, Section 69 (Life-Threatening Health Need) or Section 57 (crisis supplement).

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation, sections 57, 63, 63.1, 64, 65 and 69

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

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

PART E – SUMMARY OF FACTS

Evidence at Reconsideration

- Request for Reconsideration signed and dated April 8, 2021 which included written remarks in response to questions in the ministry's original decision that denied the appellant dental requests, 11 X-ray pictures of the appellant's teeth dated from February 5, 2020 – January 9, 2021.
- The ministry had requested additional information from the appellant's dentist on April 21, 2021 and April 26, 2021 to seek clarification on the request for crown and bridgework, but the appellant's dentist did not respond.

Evidence on Appeal

Notice of Appeal (NOA), signed and dated May 5, 2021. The NOA explained the appellant's dental office supplied an alternative code (67211) for the front bridge, missing tooth with ongoing infection in roots.

Evidence Submitted Prior to the Hearing (supplementary information)

- Letter explaining the appellant's dental history and why the dental work requested is necessary.
- Appendix A from the ministry's reconsideration decision with an asterisk placed by tooth number 12, 13, 22, and 23 which indicates retainer-porcelain/ceramic/polymer glass and fee code 67201. In addition, a note that states "dentist has advised fee code 67211 is acceptable alternative.
- A page for the Schedule of Fee Allowances – Crown and Bridgework, with code 67211 (porcelain/ceramic/polymer glass, fused to metal base *623.30) underlined.

The panel considers the NOA and the supplementary information to be the appellant's argument.

Evidence at the Hearing

At the hearing the appellant reiterated the information provided in the RFR, NOA and his supplementary information, and stated, in part, the following:

- He has the impression that through the ministry he has medical and dental coverage.
- He was told that the cost of a bridge would be covered.
- It can be life-threatening if his dental issues are not dealt with.
- He borrowed money against his home to pay for other dental work and does not have the means to pay for all of it.
- Chewing is impacted and complicated due to dental problems.
- His health issues include ongoing infections, inability to chew/eat as normal, depression and anxiety, possible breakage of teeth, and also stated that his teeth look bad.
- The pain radiates from the root of the tooth and to the nose to the eyes and the gum line blisters.
- The pain is felt most of the time and especially when eating.
- He is focused to eat soft foods and small morsels. Over-cooking his food leads to a loss of nutrients.
- He is unaware why the incorrect fee codes were submitted.

At the hearing the ministry relied on its reconsideration decision and added the following:

- The ministry requested additional information to justify the need for the dental work and the correct codes. Since authority is delegated to the insurance company, the requested information should have been submitted to the insurance company and not the ministry.
- The information sent to the ministry from the dentist was incomplete and the dentist did not respond to its requests for additional information.

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- The ministry can only make a decision based on the evidence and information before it.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the ministry's reconsideration decision dated April 26, 2021 which denied the appellant's request for coverage for crown and bridgework (code fee 27211, 23602, 67201 and 62501) because the appellant did not meet the legislative requirements of the EAPWDR, was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

The ministry found that the appellant is ineligible for the request because:

- The ministry is unable to provide coverage, for the requested extraction (fee code 71101) for tooth 11, in excess of the ministry rates set in Schedule of Fee Allowances – Dentist.
- The ministry is unable to provide coverage for the requested crown and restoration (fee codes 27211, 23602, 67201) and Pontics (fee code 62501) as a crown and restoration supplement as these particular codes are not set out as Basic Dental Services or Emergency Dental Services in the Schedule of Fee Allowances respectively.
- The ministry is unable to provide coverage for the requested crown and restoration (fee code 67201) as a crown and restoration supplement as this particular code is not set out in the Schedule of Fee Allowances – Crown and Bridgework.
- The ministry found that the request for coverage of Pontics (fee code 62501) on tooth numbers 11 and 21 does not meet the eligibility requirements set out in the EAPWD Regulation, Schedule C, subsection 4.1(2)(b) as not information has been provided as to why the appellant is unable to use a removable prosthetic.
- The ministry is not authorized to provide coverage for dental services under the EAPWDR, Section 69 (Life-Threatening Health Need) or Section 57 (crisis supplement).

The legislation provides as follows in the EAPWDR:

Crisis supplement

57 (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.

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.

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.

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

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.

Health supplement for persons facing direct and imminent life-threatening health need

69 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) a person in the family unit is eligible to receive premium assistance under the *Medicare Protection Act*, 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:

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

Dental supplements

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.

EAPWDA

Emergency dental supplements

5 The health supplements that may be paid for under section 64 [*emergency dental and denture supplements*] of this regulation are emergency dental services

The Appellant's Position

The appellant argued that he has medical and dental coverage through the ministry. He cannot afford the dental work required for him to be pain-free, and chew and eat normally.

The Ministry's Position

The ministry argued that the appellant does not meet the legislative requirements necessary for the dental extraction, crown-bridgework and restoration work requested.

Panel Decision

In its reconsideration decision, the ministry stated that “in the case of dental supplement, the minister’s powers, duties or functions are delegated to Pacific Blue Cross”.

In its reconsideration decision, the ministry stated that services are requested from a dentist therefore reference will be made to the regulations and Schedule of Fee Allowance for Dentists.

Extraction of Tooth #11

Both the Basic Dental Services and Emergency Dental Services definitions in section 1 of Schedule C indicate that when services are provided by a dentist they are “provided at a rate set out in that Schedule [of Fee Allowances] for the service and category of person receiving the service”. In this case the maximum the ministry is authorized to pay for a tooth extraction is \$69.02 and the dentist is charging \$150.00. The ministry is not authorized to pay the difference.

The panel finds that the ministry reasonably determined that it is not authorized to provide coverage of an extraction of tooth #11 in excess of the rates set out in the Schedule of Fee Allowances.

Crown, Restoration and Pontics – Schedule of Fee Allowance: Basic and/or Emergency.

The appellant has requested crown and restoration (fee code 27211 and 23602) on tooth 46 and Retainer (fee code 67201) and Pontics (fee code 62501) on tooth numbers 12, 13, 22, 23, 11 and 21 as a Basic Dental Service or Emergency Dental Service. Schedule C of the EAPWDR sets out that Basic and Emergency Dental Services when provided by a dentist can consist only of those set out in the Schedule of Fees Allowance – Dentist or as set out in the Schedule of Fees Allowance – Emergency Dental – Dentist. Fee codes 27211, 23602, 67201, 62501 are not codes or services that are set out in either of the Schedules of Fees Allowance and therefore the appellant is not eligible for services under these fee codes. At the time of the reconsideration decision, the delegated insurance company did not receive an updated fee code from the appellant’s dentist and therefore the ministry had to base its decision on the services requested at the time of reconsideration.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for crown, restoration, retainer and Pontics services pursuant to Schedule of Fees Allowance – Dentist or the Schedule of Fees Allowance – Emergency Dental – Dentist.

Crown, Restoration and Pontics – Schedule C section 4.1 of the EAPWDR

The appellant has requested crown and restoration (fee code 27211 and 23602) on tooth 46 and Retainer (fee code 67201) on tooth numbers 12, 13, 22 and 33, and Pontics (fee code 62501) on tooth numbers 11 and 21 as a Crown and Bridge supplement. Section 63.1 states that the ministry can provide crown and bridgework as it is set out in section 4.1. Section 4.1 of Schedule C of the EAPWDR defines crown and bridgework as services set out in the Schedule of Fee Allowance- Dentist – Crown and Bridgework.

The Retainer (fee code 67201) is not set out in the Crown and Bridgework section of the Schedule of Fee Allowance – Dentist.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for retainer services pursuant to section 63.1, Schedule C section 4.1 of the EAPWDR and the Schedule of Fees Allowance – Dentist - Crown and Bridgework.

Schedule C section 4.1(2)(a) and (b) of the EAPWDR

Schedule C section 4.1(2)(a) states that the ministry can only pay for the coverage of crown and bridgework if it is satisfied that the dental condition precludes the provision of the restorative services set

out under the Restorative Services section of the Schedule of Fees Allowance – Dentist. In this case tooth numbers 11 and 21 are being extracted and the ministry accepts that the appellant's dental condition related to the bridgework on tooth numbers 11, 12, 13, 21, 22, and 23 cannot be addressed by restorative services. The ministry also accepts that the appellant's dental condition related to tooth 46 cannot be corrected by restorative services. Therefore, the requirement of section 4.1(2)(a) are met.

Schedule C section 4.1(2)(b) states that the ministry can pay for the coverage of crown and bridgework if it is satisfied that (i) dental condition precludes the use of a removable prosthetic, (ii) a physical impairment makes it impossible for the person to place a removable prosthetic, (iii) a 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 impairment that makes it impossible for the person to assume responsibility for a removable prosthetic. In this case, the evidence before the ministry at the time of reconsideration does not demonstrate that the appellant's condition(s) precludes him from using a removable prosthetic.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for crown, restoration, retainer and Pontics services pursuant to Schedule C section 4.1 (2)(b) of the EAPWDR.

Section 57(3) – Crisis Supplement

Section 57(3) of the EAPWDR states that a crisis supplement cannot be provided for items listed in Schedule C or any health care goods or services. The crown and bridgework requested by the appellant is listed in Schedule C section 4 and therefore is not eligible for a crisis supplement and are dental care services which are health care services. As such, they cannot be provided as a crisis supplement.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for crown and bridgework as a crisis supplement pursuant to section 57(3) of the EAPWDR.

Section 69 – Life Threatening Health Need

Section 69 of the EAPWR states that the ministry may provide items listed as medical transportation, medical equipment/devices, and some medical supplies to someone who is otherwise not eligible if the person faces a direct and imminent life-threatening need. Though the appellant indicated that he struggles to chew, must eat soft foods and small morsels, dental and denture supplements are not listed in these sections as supplements that can be provided.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for dental and denture supplements as a life-threatening health need pursuant to section 69 of the EAPWDR.

Conclusion

The panel finds that the ministry's reconsideration decision, which denied the appellant's request for crown, bridgework, tooth extraction and Pontic, because the appellant did not meet the legislative requirements pursuant to sections 57, 63, 63.1, 64, 65 and 69, and Schedule C subsections 1, 4, 4.1 and 5 of the EAPWDR, was reasonably supported by the evidence and a reasonable application of the applicable enactment in the circumstances of the appellant. The appellant is not successful in the appeal.

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PART G – ORDER

THE PANEL DECISION IS: (Check one) UNANIMOUS BY MAJORITY

THE PANEL CONFIRMS THE MINISTRY DECISION RESCINDS THE MINISTRY DECISION

If the ministry decision is rescinded, is the panel decision referred back to the Minister
for a decision as to amount? Yes No

LEGISLATIVE AUTHORITY FOR THE DECISION:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

and

Section 24(2)(a) or Section 24(2)(b)

PART H – SIGNATURES

PRINT NAME

Neena Keram

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/05/25

PRINT NAME

Shirley Heafey

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/25

PRINT NAME

Robert McDowell

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/05/25