

PART C – DECISION UNDER APPEAL

Under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated June 2, 2021, denying funding for a root canal (fee code 33144) and crown (fee code 27201 or 27301) on tooth number 36 under the Employment and Assistance for Persons with Disabilities Regulation because:

- The root canal and porcelain/ceramic/polymer glass crown (porcelain crown) are not included in the Schedule of Fee Allowances as basic, emergency or crown/bridgework dental services;
- Although an alternative metal crown (fee code 27301) is included in the Schedule of Fee Allowances as a crown and bridgework dental service, it has not been established, respecting this crown or the porcelain crown, that the appellant is unable to use a removable prosthetic, which is a requirement of Schedule C section 4.1(2)(b); and,
- Coverage for dental services cannot be provided as a life-threatening health need supplement under section 69 or as a crisis supplement under section 57.

PART D – RELEVANT LEGISLATION

Employment and Assistance for Persons with Disabilities Regulation (the Regulation) – sections 57 and 69 and sections 1, 4, 4.1, and 5 of Schedule C

Schedule of Fee Allowances (Dental Supplements, Emergency Dental Supplements, Crown and Bridgework Supplements)

PART E – SUMMARY OF FACTS

Information before the ministry at reconsideration

The appellant is eligible to receive funding for dental services as a recipient of Medical Services Only or as a continued person if the requirements of the Regulation are met.

The ministry has delegated its powers, duties and functions respecting dental supplements to Pacific Blue Cross (PBC) in accordance with section 34 of the *Employment and Assistance Act*.

The appellant's dentist requested coverage from PBC for a root canal (fee code 33144, dentist fee of \$1,129.00) and a porcelain crown (fee code 27201, dentist fee of \$1,425.00) on tooth 36. Information from the dentist, PBC and the appellant confirm that the root canal was performed on January 29, 2021, followed by the porcelain crown on February 12, 2021. It is not entirely clear when the dentist first requested coverage for these services and PBC originally denied coverage, in part, because of failure to obtain pre-authorization. However, as the reconsideration decision does not deny coverage for this reason, the matter is not at issue and the date of the initial request need not be determined.

A summary of relevant documentation and communication is as follows.

A PBC statement dated February 1, 2021 indicates that the root canal was denied because it is not covered under the appellant's plan.

By letter dated March 5, 2021, the dentist wrote to PBC respecting the porcelain crown for tooth #36, stating:

#36 requires root canal therapy and the current standard of care for an endodontically treated molar is to place a full coverage crown as soon as possible after endodontic treatment is completed. Given this additional information, I trust you will be able to confirm the eligibility of the treatment under the patient's dental insurance benefits.

On April 12, 2021, the dentist requested pre-authorization for the porcelain crown. PBC replied that records indicate that the date of service for the porcelain crown on tooth 36 was February 12, 2021 and that payment cannot be provided without pre-approval. PBC advised the dentist of an alternative full cast metal crown for which coverage may be provided (fee code 27301) and requested additional information from the dentist including a list of all missing teeth, relevant information regarding the appellant's medical condition(s) that would support the need for a crown or bridge, and an explanation of "why treatment needs cannot be met through the basic dental program (i.e. conventional restorations, ss crowns, extractions, partial denture, plastic crown etc.)"

The appellant requested reconsideration, explaining in a letter dated May 11, 2021 that, despite the dentist filling and refilling tooth #36, the appellant still had pain and spoke with the dentist who submitted a letter to PBC for funding. The dentist provided additional information as requested by the PBC and, in the meantime, the appellant had to have a root canal and crown to maintain the ability to chew food. The appellant attached:

- A receipt from the dental clinic confirming January and February 2021 credit card payments for the root canal and porcelain crown in the full amount of \$2,554.00.
- Two Standard Dental Claim Forms dated April 14, 2021, one requesting root canal 33144 on tooth 36 and indicating teeth 18, 27, 28, and 48 are missing and that the appellant has no prosthesis; the other contains the same information and also requests crown 27201 on tooth 36.
- A receipt for dental lab fees.
- Copies of dental X-rays.

Information provided on appeal

The appellant's Notice of Appeal (NOA) dated June 7, 2021, which does not include evidence.

A June 11, 2021 email in which the appellant confirms having the root canal and crown on tooth 36 for the reasons previously described. The appellant states that the dental office advised her that PBC stated that the paper work was not submitted in time to get coverage, and that as the appellant has seen the dentist for 16 years, and the dentist is aware that the appellant received ministry funding in the past, the dentist should have known that pre-authorization is required. The appellant also describes dental services recommended by the dentist at a May 26, 2021 appointment, which are not the subject of this appeal.

A June 16, 2021 email in which the appellant describes back-and-forth communications between herself, an oral surgeon's office and PBC respecting an extraction for which the appellant will receive some amount refunded. The appellant states that the back-and-forth has been stressful and shows how lack of information from the dentist and ministry to PBC resulted in denial of funding for the root canal and crown.

The appellant was represented by an advocate. The advocate provided argument, which is set out in Part F of this decision. In response to the ministry asking if her visual impairment prevents use of removable prosthetic, the appellant responded that her vision is very poor due to macular degeneration, that she can't read books or magazines, needs a magnifier, and has a cane but is able to function now though she will become blind in time.

At the hearing, the ministry explained the reconsideration decision and stated that the dentist did not provide information about use of a removable prosthetic. No additional evidence was provided by the ministry.

The panel admitted the information provided in the appellant's emails and at the hearing as information reasonably required for full and fair disclosure of all matters related to the appeal in accordance with section 22(4) of the Employment and Assistance Act.

PART F – REASONS FOR PANEL DECISION

Issue on Appeal

The issue on appeal is whether the ministry's decision to deny the appellant the requested funding for the requested root canal and a crown was reasonably supported by the evidence or was a reasonable application of the applicable enactment in the circumstances of the appellant.

Positions of the Parties

The appellant's advocate took no position regarding the reconsideration decision except for the ministry's determination that the requirements of section 4.1(2)(b) for a crown were not met. The advocate argues that the information in the dentist's March 5, 2021 letter and Dental Claims Forms establish that the appellant's medical condition precludes the use of a removable prosthetic. In particular, the advocate relied on the dentist's statement that "the standard of care for an endodontic treated molar is to place a full coverage crown as soon as possible after endodontic treatment is completed" and that the dentist recommended the right treatment for the appellant.

The ministry's position is that coverage cannot be provided for either the root canal or the porcelain crown on tooth 36 because of the coverage limitations under the Regulation. Specifically, the ministry determined that:

- as Schedule C of the Regulation defines a basic dental, emergency and crown and bridgework service as a service set out in those sections of the Schedule of Fee Allowances, the appellant is not eligible for funding for the root canal and porcelain crown because the dental services are not listed.

The ministry also considered a metal crown not requested by the dentist, fee code 27301, which is listed in the crown and bridgework section of the Schedule of Fee Allowances, but determined that:

- the requirements specific to crown and bridgework of section 4.1(2) of Schedule C of the Regulation were not met for the porcelain crown or the metal crown 27301. The ministry states that although the information respecting the repeated attempts to fill tooth 36 established that the dental condition could not be corrected by basic restorative services, thereby meeting the requirement of section 4.1(2)(a), the information did not establish that the appellant is unable to use a removable prosthetic, as required under section 4.1(2)(b).

Panel's Analysis

Eligibility for a dental supplement

Funding limits for dental services and the amount of funding per dental service arise from section 1 of Schedule C of the Regulation which defines “basic dental service” and “emergency dental service” and from section 4.1(1) of Schedule C which defines “crown and bridgework” as a dental service set out in the applicable section of Schedule of Fee Allowances and provided at the rate set out in that Schedule [emphasis added].

For crown and bridgework dental services, section 4.1(2) of Schedule C of the Regulation imposes the additional requirements that:

- (a) the dental condition precludes the provision of the restorative services set out in the Schedule of Fee Allowances – Dentist; and
- (b) use of a removable prosthetic is precluded because of one of the following circumstances: for one of the listed reasons:
 - (i) the appellant’s dental condition precludes the use of a removable prosthetic;
 - (ii) the appellant has a physical impairment that makes it impossible for her to place a removable prosthetic;
 - (iii) the appellant has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic; or
 - (iv) the appellant has a mental condition that makes it impossible for her to assume responsibility for a removable prosthetic.

In the appellant’s case, the panel finds that the ministry reasonably determined that, based on the definitions of basic, emergency, and crown and bridgework dental service, the appellant is not eligible for the root canal or porcelain crown as the fee codes for those services are not included in the Schedule of Fee Allowances.

Respecting the additional requirement for a crown set out in section 4.1(2)(b), the panel finds that identifying a dental service, a full coverage crown, as “the current standard of care” is not the same as indicating that a dental condition precludes the use of a removable prosthetic. The panel also notes that the dentist does not explain why the full cast metal crown suggested by PBC was not an option as a full coverage crown. The possibility of the appellant being unable to use a removable prosthetic due to her limited vision was raised at the hearing but there is no information from the dentist or other health care professional respecting this matter and the appellant reports being able to function despite her macular degeneration. There was no evidence or suggestion that the other circumstances set out in section 4.1(2)(b) are applicable to the appellant. Therefore, the panel finds the ministry reasonable in concluding that the information does not establish one of the circumstances described in section 4.1(2)(b).

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 coverage for the root canal and crown under section 57 [crisis supplement] and section 69 [health supplement to meet a direct and imminent life-threatening need].

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. Because dental services, described in Schedule C or not, are considered health care goods or services, the ministry was reasonable in concluding that the appellant was not eligible for the requested funding under this section.

Similarly, as health supplements under section 69 may only be provided for certain supplements listed under sections 2 and 3 of Schedule C (medical equipment/devices, certain medical supplies and medical transportation), not the sections that deal with dental supplements (sections 4, 4.1 and 5 of Schedule C), the ministry was reasonable in concluding that the appellant was not eligible for the requested funding under this section.

Conclusion

Based on the limits of coverage set out in the Regulation and Schedule of Fee Allowances, the panel concludes that the ministry's reconsideration decision denying coverage for the root canal and a crown was a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the reconsideration decision and the appellant is not successful on appeal.

Employment and Assistance for Persons with Disabilities Regulation

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.

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.....

Schedule C - 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 person receiving the service....

Dental supplements

4 (1.1) The health supplements that may be paid under section 63 [*dental supplements*] are basic dental services.....

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 minister,
- (c) that is provided at the rate set out for the service in that Schedule.....

(2) A health supplement may be paid under section 63.1 of the 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 him or her 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 him or her to assume responsibility for a removable prosthetic.

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
2021-0118

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

Jane Nielsen

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/06/23

PRINT NAME

Kim Read

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/06/23

PRINT NAME

Susan Ferguson

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/06/23