

APPEAL NUMBER
2020-00134

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated May 7, 2020, which denied the appellant coverage of an exam and tooth extraction (fee codes 01204 and 71101) in excess of the rates set out in the Schedule of Fee Allowances – Dentist.

PART D – RELEVANT LEGISLATION

Employment and Assistance Regulation(EAR) , sections 59, 68, 68.1, 70, and 76

Employment and Assistance Regulation(EAR), Schedule C, sections 1, 4, 4.1, 5 and 6

Schedule of Fee Allowances – Dentist, Emergency Dental – Dentist

PART E – SUMMARY OF FACTS

The appellant did not attend the hearing. Having confirmed that the appellant was notified of the hearing, the panel proceeded with the hearing pursuant to section 86 of the *Employment and Assistance Regulation*.

Summary of key dates:

- February 28, 2020 the appellant contacted the ministry and asked for help with a dental bill as insurance did not cover the full fee.
- On March 2, 2020 the ministry considered the appellant's request under the crisis supplement legislation. The ministry determined the appellant did not meet the eligibility criteria for a crisis supplement to reimburse them for their share of dental fees.
- On April 24, 2020 the appellant submitted a Request for Reconsideration. The appellant explained that they expected insurance to cover the cost and that they did not specifically request a crisis supplement only that the whole bill be paid as a dental supplement under Section 68 or 70 of the Regulation.

Ministry Notes: In the ministry reconsideration decision the following notes were made:

- As the exam and extraction were completed on February 27, 2020 and the appellant's designation for PWD did not come into effect until April 1, 2020, the ministry used the Employment and Assistance Act and Regulations in the making of their decision as they were applicable at the time the appellant received the dental services.
- Under the Employment and Assistance Act and applicable regulations, the minister may authorize any person or category of persons to take on any or all of the minister's powers, duties or functions. In the case of dental supplements, the minister's powers, duties or functions are assigned to Pacific Blue Cross (PBC). Please see the Employment and Assistance Act, Section 34 for more information.

Evidence before the ministry at the time of reconsideration:

- In the **Request For Reconsideration**, under Reasons for request, the appellant writes:
 - Their molar came off and, with pain, saw a dentist who extracted the tooth.
 - They expected the full cost to be covered as they were in pain but only \$90.77 of a \$185.00 bill was covered.
 - They did not ask for a crisis supplement: only asked that the whole bill be paid.
 - Believes full coverage falls under a dental supplement section 68 of the EA Regulations or an emergency dental supplement under section 70 of the EA Regulations.
 - They feel if sections 68 or 70 do not apply, section 59 of the EA Regulations should apply as it states "a crisis supplement may not be provided for the purpose of obtaining...." The appellant explained they did not go to the dentist to "obtain" a healthcare good or service, but a crisis supplement would be obtaining relief of a debt to the dentist.

- Photos of the appellant's crown and mouth.
- Screen Shot of appellant's My Self-Serve account showing the message the ministry sent to the appellant regarding the appellant's request for reconsideration.

Additional information:

- In the **Notice of Appeal** the appellant stated:
 - They believed there are substantive grounds for appeal but felt pages were missing (1 or 2) from the written decision and thus would not make a statement until they had a complete package.
- **Basic Eligibility-** the ministry determined the appellant qualified for coverage under emergency dental services EA Regulation, Section 70, and Schedule C, Section 6.
- **Appeal Submissions**
 - **The appellant** provided three appeal submissions dated May 12, 2020, June 18, 2020 and June 7, 2021. All three submissions supplied information to support an adjournment request.
 - **The Ministry** relied on the reconsideration decision at the hearing.
 - **Admissibility:** The panel finds that the submissions made by the appellant address requests for adjournments and were not required for a full and fair disclosure of all matters related to the decision under appeal. The panel determined they do not meet the test of admissibility under s. 22(4)(b) of the *Employment and Assistance Act* and will not be admitted as evidence.
- **At the hearing** the ministry noted:
 - In following the current legislation, the appellant is only entitled to dental cost coverage based on the Fee Schedule- Dentist.
 - Clients are advised to discuss with their dentist fees for services in order to determine if the fee schedule will cover partial or complete costs of procedures.

PART F – REASONS FOR PANEL DECISION

Appeal Issue

The issue in this appeal is whether the ministry was reasonable in denying the appellant's request for the ministry to cover the full cost of an exam and tooth extraction (fee codes 01204 and 71101) which are in excess of the rates set out in the Schedule of Fee Allowances – Dentist.

ANALYSIS

Appellant's Position

As the appellant was in severe pain due to a broken crown and the tooth had to be extracted, they feel full coverage should occur through emergency dental coverage. The current dental fee schedule does not match the fees charged by dentist and is therefore unfair to the client as the additional cost was not expected. Alternatively, the appellant submitted that a crisis supplement should be provided to cover the debt to the dentist."

Ministry's Position

The ministry is bound by the legislation in terms of fee payment allocation for both basic and emergency dental services. The appellant was given the maximum allowable coverage.

Panel Finding

Fees in Excess of Ministry Rates

Although the reconsideration decision did not discuss dental supplements under EA Regulation section 68, (likely because the supplement was provided) the panel notes that a *basic dental service* is defined in EA Regulation Schedule C, section 1, to be limited to the rates set out in the Schedule of Fee Allowances – Dentist. As the appellant received the amounts set out in the Schedule, the panel finds the ministry was reasonable not providing funding over the maximum rates under this section.

The ministry may provide coverage for *emergency dental services* as set out in EA Regulation, Section 70 and Schedule C, Sections 1 and 6. *Emergency dental services* may be provided by a Dentist, Denturist, or Dental Hygienist. *Emergency dental services* are defined in EA Regulation, Schedule C, section 1, to be limited to the rates set out in the Schedule of Fee Allowances – Emergency Dental – Dentist.

- Fee Code 01204- oral exam. The ministry determined the appellant was eligible for funding for an oral exam up to the maximum rate as set out in Schedule of Fee Allowances – Dentist. The panel finds the ministry was reasonable in denying the appellant's request for coverage in excess of the ministry rates set out in the Schedule of Fee Allowances – Dentist, as the ministry may only provide coverage for emergency dental services up to the maximum rates listed in that Schedule.
- Fee Code 71101- tooth extraction. The ministry determined the appellant was eligible for

funding for a tooth extraction up to the maximum rate as set out in Schedule of Fee Allowances – Dentist. The panel finds the ministry was reasonable in denying the appellant's request for coverage in excess of the ministry rates set out in the Schedule of Fee Allowances – Dentist, as the ministry may only provide coverage for emergency dental services up to the maximum rates listed in that Schedule.

Eligibility for coverage of dental fees in excess of ministry rates as a crisis supplement

Section 59(3) of the EA Regulation says that the ministry may not provide a crisis supplement to obtain a supplement described in Schedule C or for any other health care goods or services. The panel finds the ministry was reasonable in determining that the dental work the appellant had was a health care service and is described in Schedule C. As a result, the panel finds the ministry was reasonable in denying the appellant a crisis supplement to reimburse their portion of the dental fees.

Eligibility for Coverage as a Life-Threatening Health Need

Section 76 of the EA Regulation states that the minister may provide medical transportation, medical equipment / devices, and some types of medical supplies, to or for a person who is otherwise not eligible for the health supplement under this regulation. As Section 76 only applies to medical transportation, medical equipment / devices, and some types of medical supplies (as described in EA Regulation, Schedule C, subsections 2(1)(a), 2(1)(a)(f), and Section 3) and not dental supplements, the panel finds the ministry was reasonable in denying the appellant coverage of fees in excess as a life-threatening health need.

Conclusion

The panel finds that the ministry's reconsideration decision denying the appellant's request for full funding of the dental services received is a reasonable application of the legislation in the circumstances of the appellant. The panel therefore confirms the ministry's decision. The appellant's appeal is thus not successful.

Applicable Legislation

EMPLOYMENT AND ASSISTANCE ACT Delegation of minister's powers and duties

34 (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,
- (b) the power to appoint members to the tribunal, and

(c) the power to enter into an agreement under section 30 (2) or (2.1), unless section 30 (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

(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

(2) A crisis supplement may be provided only for the calendar month in which the application or request for the

(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 conditions the minister considers advisable.

EMPLOYMENT AND ASSISTANCE REGULATION

Crisis supplement

59 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for income 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, and

(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. 1, 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.

Dental supplements

68 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 income assistance, if

(i) the family unit includes a person with persistent multiple barriers to employment, or

(ii) the health supplement is provided to or for a person in the family unit who is under 19 years of age,

(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

- (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 persistent multiple barriers to employment or part of a family unit that then included a person with persistent multiple barriers to employment.
- [en. B.C. Reg. 145/2015, Sch. 1, s. 9; am. B.C. Reg. 161/2017, App. 1, s. 2.]

Crown and bridgework supplement

- 68.1** 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 income assistance, if the supplement is provided to or for a person in the family unit who has persistent multiple barriers to employment, 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 persistent multiple barriers to employment.
- [en. B.C. Reg. 145/2015, Sch. 1, s. 9.]

Emergency dental and denture supplements

- 70** The minister may provide any health supplement set out in section 6 [*emergency dental supplements*] of Schedule C to or for
- (a) a family unit in receipt of income 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. 1, s. 9.]

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

- 76** (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. 1; am. B.C. Regs. 197/2012, Sch. 1, s. 19; 145/2015, Sch. 1, s. 13; 180/2019, App. 4, s. 3.]

Schedule C

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,
- (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;

"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

4 (1) In this section, "period" means

(a) in respect of a person under 19 years of age, including a child in a home of a relative, 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 68 [*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).

(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, other than a person who is a main continued person under section 66.3 (1) of this regulation as a result of having been part of a family unit identified in section 66.3 (3) (a) or a dependent continued person under section 66.3 (2) of that 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 income assistance or disability 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 recipient has received the pre-authorization of the minister.

(2) A health supplement may be paid under section 68.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the recipient 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 recipient has a physical impairment that makes it impossible for the recipient to place a removable prosthetic;

(iii) the recipient has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic;

(iv) the recipient has a mental condition that makes it impossible for the recipient 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

6 The health supplements that may be paid for under section 70 [*emergency dental and denture supplements*] of this regulation are emergency dental services.

Dental Supplement-Dentist

Part A - Preamble - Dental Supplements - Dentist

The overall intent of the Ministry of Social Development and Poverty Reduction (Ministry) Dental Supplements is to provide coverage for basic and emergency dental services to eligible individuals who receive assistance through the BC Employment and Assistance (BCEA) Program and children in low-income families. The attached Part B - *Schedule of Fee Allowances - Dentist* outlines the eligible services and fees associated with the Ministry's Dental Supplements and the provision of basic dental services. It contains the rules, frequency and financial limits associated with each service. All frequency limitations include services performed by dentists, denturists and hygienists.

The following information provides details on the Ministry's Dental Supplements, how to confirm eligibility and obtain payment for services rendered.

Eligibility for Dental Supplements

It is important to note that the Ministry provides varying levels of benefits and some individuals may have coverage for basic dental services with a 2-year limit while others are limited to coverage of emergency dental services only. To ensure active coverage is in place and to confirm the type and amount of coverage available, eligibility must be confirmed for all patients prior to proceeding with any treatment. Procedures for confirming eligibility for your

patients are outlined on page (v) under the Eligibility Information section.

BCEA Adults

Adults who are eligible for basic dental services under Ministry Dental Supplements are eligible for a \$1,000 limit every 2-year period beginning on January 1st of every odd numbered year. The applicable fees for services provided to adult patients are listed in the *Schedule of Fee Allowances – Dentist* under the column marked “Adult”.

Fees related to appeal

Fee for Code 01204 Specific Oral Exam Adult \$21.75

Fee for Code 71101 Extraction single tooth Adult \$69.02

Emergency Dental Supplements

For Ministry clients who are not eligible for the previously noted 2-year limit or those who have exhausted their limit, some short-term assistance may be available through Emergency Dental Supplements. Children covered under the Healthy Kids program are also eligible for Emergency Dental Supplements. Emergency Dental allows for treatment of an eligible person who needs immediate attention to relieve pain, or to control infection or bleeding or if a person’s health or welfare is otherwise immediately jeopardized.

Specific and comprehensive information regarding allowable emergency services along with their associated fees, rules and restrictions and billing information can be found under Part C - *Preamble - Emergency Dental Supplements* and Part D - *Schedule of Fee Allowances - Emergency Dental - Dentist*. Emergency services must be billed on a separate claim form and clearly marked as “Emergency”.

Payment Process

Claims under the Ministry’s Dental Supplements will be paid in accordance with the *Schedule of Fee Allowances - Dentist* and these fees represent the maximum amount the Ministry can pay for the services billed.

Fees related to appeal

Fee for Code 01204 Specific Oral Exam Adult \$21.75

Fee for Code 71101 Extraction single tooth Adult \$69.02

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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

Charles Schellinck

SIGNATURE OF CHAIR

DATE (YEAR/MONTH/DAY)

2021/07/12

PRINT NAME

Tina Ahnert

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/13

PRINT NAME

Bob Fenske

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/07/15