

PART C – DECISION UNDER APPEAL

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the ministry) reconsideration decision dated July 8, 2021, which denied the appellant's request for coverage for crown work (code fee 27201 for tooth # 11,12, 21, 22, 35, 36 and 46) because the appellant did not meet the legislative requirements of the Employment and Assistance Persons with Disability Regulation (EAPWDR) and the EAPWDR Schedule C.

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 crowns (fee codes 27201) as a crown supplement under this particular code is not set out as Basic or Emergency Dental Services in the Schedule of Fee Allowances.
- The ministry is unable to provide coverage for the requested crown work because, pursuant to section 4.1 (1) (d) of Schedule C, pre-authorization from the ministry was not obtained prior to having the dental work done.
- The ministry is unable to provide coverage for the requested crown because it has not been established that a dental condition precludes the use of the restorative services, and the appellant is precluded from the use of a removable prosthetic due to a dental, physical, allergic, or mental condition/impairment pursuant to section 4.1 (2) (a) and (b) of Schedule C.
- 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

- A questionnaire (Questionnaire) dated June 8, 2021, which was presented to and completed by the appellant's dentist. In it, the dentist responded to a series of questions with checkmarks. In part, the dentist agreed that the appellant has a dental condition that precludes her from restorative services and a dental condition that precludes the appellant from using a removable prosthetic.
- A 1-page record of the dental work completed on the appellant, which includes policy number, date of the procedure, tooth number, and fee code.
- Standard Dental Claim Form, requesting remittance of payment for services rendered on January 29, 2021, for tooth number 11, 12, 21 and 22.
- Standard Dental Claim Form, dated January 8, 2021, requesting remittance of payment for services rendered on June 11, 2021, for tooth number 35 and 36 and services rendered on December 4, 2020, for tooth number 46.
- Statement of Services Rendered with a credit balance of \$5000.00 in the name of the appellant.
- Statement of Services Rendered with a credit balance of \$3500.00 in the name of the appellant for crowns on tooth number 11, 12, 21 and 22.
- 6-page claim history in which the ministry's representative indicated that the fee code used in the claim history requires preauthorization which was not obtained.
- Request for Reconsideration (RFR) dated and signed May 12, 2021. In part it stated that the appellant asked the dentist to request the crownwork prior to October 23, 2021 and has made a partial payment for services rendered pending a decision from the ministry. On January 29, 2021, the dentist demanded the remainder of the payment and refused to contact the ministry or its representative (Pacific Blue Cross or PBC). PBC confirmed that the dentist was informed that he used the wrong fee codes for the crowns.

Evidence on Appeal

Notice of Appeal (NOA) signed and dated July 18, 2021. The NOA stated "errors in ministry's decision".

Evidence Submitted Prior to the Hearing (supplementary information)

- July 15, 2021, letter from the appellant's medical doctor (MD) which indicated that the appellant suffers from Post-Traumatic Distress Syndrome (PTSD) related to foreign objects in her mouth and having a removable prosthetic would trigger the PTSD.
- July 20, 2021, letter from the appellant to her dentist which provides a summary of the ministry's denial decision, a history of her dental conditions and her understanding of her current situation with the ministry.
- July 22, 2021, letter from the appellant's dentist in which it is indicated that the appellant would not be a candidate for restorative services and crowns are a more appropriate solution.
- July 28, 2021, letter from the appellant to the panel which provides a chronological account of her dental history, and her understanding of why the ministry denied her claim.

The panel considers the NOA and the supplementary information (July 20, 2021, and July 28, 2021, letters) to be the appellant's argument.

Evidence at the Hearing

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

- The letter from the dentist and MD now confirm that she is not a candidate for restorative services or a removable prosthetic.
- The letter from the dentist answers any questions the ministry had in its denial decision.
- The claim history indicates that the dentist attempted to obtain preauthorization from the PBC and that she did not know that the request was denied.
- The ministry and PBC had many delays and due to her pain, the dentist proceeded with the crownwork.

At the hearing the ministry relied on its reconsideration decision.

Admissibility of New Information

The ministry did not object to any of the supplementary information being admitted into evidence.

A panel may consider evidence that is not part of the record as the panel considers is reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

In this case, the panel determined that the July 15, 2021, letter from the MD and the July 22, 2021, letter from the dentist is admissible because the information in both documents allow for a full and fair disclosure of all matters related to the issue on appeal.

PART F – REASONS FOR PANEL DECISION

The decision under appeal is the ministry's reconsideration decision dated July 8, 2021, which denied the appellant's request for coverage for crowns (code fee 27201) 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 crowns (fee codes 27201) as a crown supplement under this particular code is not set out as Basic or Emergency Dental Services in the Schedule of Fee Allowances.
- The ministry is unable to provide coverage for the requested crown work because, pursuant to section 4.1 (1) (d) of Schedule C, pre-authorization from the ministry was not obtained prior to having the dental work done.
- The ministry is unable to provide coverage for the requested crown because it has not been established that a dental condition precludes the use of the restorative services, and the appellant is precluded from the use of a removable prosthetic due to a dental, physical, allergic, or mental condition/impairment pursuant to section 4.1 (2) (a) and (b) of Schedule C.
- 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 applicable legislation follows the panel's decision.

The Appellant's Position

The appellant argued that the evidence shows that the dentist did attempt to obtain pre-authorization but there were multiple delays and that her dentist and MD have confirmed that she has conditions that preclude her from restorative work and removable prosthetics.

The Ministry's Position

The ministry argued that the appellant does not meet the legislative requirements necessary for the requested crownwork.

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.

Crownwork – Schedule of Fees Allowances: Basic and/or Emergency.

The appellant has requested crownwork (fee code 27201) on tooth 11, 12, 21, 22, 35, 36 and 46 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 Allowances – Dentist or as set out in the Schedule of Fees Allowances – Emergency Dental – Dentist. Fee codes 27201 is not a code or service that is set out in either of the Schedules of Fees Allowances 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 evidence, in this case the legislation, is clear. The fee code 27201 is not listed in the Schedule of Fees and Allowances under basic or emergency dental services. Therefore, the appellant is eligible for fee code 27201.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for crownwork pursuant to Schedule of Fees Allowance – Dentist or the Schedule of Fees Allowance – Emergency Dental – Dentist.

Schedule C section 4.1(1)(d) - Pre-Authorization

Schedule C section 4.1(1)(d) states that the ministry can only pay for the coverage of crownwork for which the person has received the pre-authorization from the ministry. The evidence demonstrates that the dentist submitted a pre-authorization request on October 7, 2020, which was denied because it was not a benefit that was covered under the appellant's plan. Subsequently, the dentist submitted pre-authorization requests for crownwork that was completed prior to receiving the ministry's approval (as indicated by the claim history). The appellant and her dentist do not deny that the crown work on the appellant's teeth was completed prior to receiving the pre-approval of the ministry or its representative.

Therefore, the panel finds that the ministry was reasonable in its determination that the requirement pre-authorization pursuant to section 4.1(1)(d) of Schedule C was not met.

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 crownwork if it is satisfied that a 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, the evidence before the ministry at the time of reconsideration did not demonstrate that the appellant's dental condition(s) precludes her from restorative services. However, the July 22, 2021, letter from the dentist confirms that crowns are appropriate for tooth # 35, 36 and 46 as more fillings will destroy the remaining tooth structure. Therefore, the panel finds that the ministry was not reasonable in its determination that the requirement of section 4.1(2)(a) of Schedule C was not met.

Schedule C section 4.1(2)(b) states that the ministry can pay for the coverage of crownwork 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 Questionnaire which was completed by the dentist indicated that the appellant has dental condition which precludes her from using a removable prosthetic. However, other than the checkmark provided on the Questionnaire no information was provided to support that a dental condition precludes the use of a removable prosthetic. The ministry determined that this was not satisfied that the information in the Questionnaire was sufficient to conclude that the appellant is precluded from a removable prosthetic. The issue comes down to whether the ministry is satisfied that a condition precludes the use of the removable prosthetic. The panel understands this to mean that the ministry can apply a broad or narrow interpretation of the evidence. With this in mind, the panel finds that the information in the Questionnaire, which contains no explanation, is not enough to preclude the use of a removable prosthetic.

The July 15, 2021, letter from the MD indicates that the appellant is triggered by foreign objects in her mouth and using a removable prosthetic will trigger her PTSD. This information was not available at the time of reconsideration. However, the legislation (section 4.1 (2) (b)(iv)) clearly states that a mental condition must make it impossible to assume responsibility for a removable prosthetic. That is, one has the ability to be accountable for or bear the burden of the prosthetic. The panel finds that the triggering of PTSD does not demonstrate that the appellant is incapable of caring for or having the responsibility of the prosthetic.

The panel finds that the ministry reasonably determined that the appellant does not meet the eligibility requirements for crownwork 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 crownwork requested by the appellant is listed in Schedule C section 4 and therefore is not eligible for a crisis supplement and is a dental care service that is a health care service. As such, it 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 crownwork 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. The appellant stated that she was in pain, but the panel finds that there is no evidence to indicate that failure to have the crownwork done would have led to her facing a direct and imminent life-threatening need.

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 crownwork 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.

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

APPEAL NUMBER
2021-0144

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)

2021/08/03

PRINT NAME

Cherri Fitzsimmons

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/08/03

PRINT NAME

Bill Haire

SIGNATURE OF MEMBER

DATE (YEAR/MONTH/DAY)

2021/08/03