

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision made November 5, 2021 which held that the appellant was not entitled to coverage for a portion of his fees for dental services. The Ministry found that, pursuant to Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”) and the *Schedule of Fee Allowances – Dentist* (the “Schedule”) some of the fees that the appellant requested were:

- 1) in excess of the rates or fees provided in the EAPWDR or the Schedule; or
- 2) for fee codes not provided in the EAPWDR or the Schedule.

The Ministry also determined that they were not able to provide coverage for dental services as a life-threatening health need pursuant to section 69 EAPWDR or as a crisis supplement pursuant to section 57 EAPWDR.

Part D – Relevant Legislation

Section 86(b) Employment and Assistance Regulation (“EAR”)
Sections 62, 63, and 64, Schedule C (Sections 1, 4, 5) Employment and Assistance for Persons with Disabilities Regulation (“EAPWDR”)

Part E – Summary of Facts

The information before the Ministry at the time of reconsideration was:

- 1) Jan 28, 2021 Treatment Plan Proposal from the oral surgeon which provides for the specific procedures and costs of those procedures.
- 2) April 7, 2021 letter from the oral surgeon which provides that if the appellant does not receive the proposed treatment set out in the Treatment Plan Proposal the appellant is at risk of the following: serious infection (oral and or systemic), poor nutrition due to pain, loss of additional teeth due to spread of infection, and potential admission to the hospital in time of Covid 19. The appellant has been waiting several years for the extractions and has been surviving on a diet of poor nutritional intake and faces further malnourishment. After insurance coverage the cost to the appellant will be \$3975.81 and without further financial assistance the appellant cannot afford this treatment.
- 3) April 23, 2021 letter from the insurer showing that the coverage available for the treatments is \$917.66.

In the reconsideration submission the appellant provided: “assessed by the [oral surgeon] as requiring several surgical tooth extractions. Serious medical complications if teeth are not extracted, including spread of infection and loss of additional teeth, poor nutrition and hospital admission. Client has no other means to pay for the treatment.”

The notice of appeal states: “Assessed by surgeon as requiring several surgical tooth extractions, faces significant medical complications if teeth are not extracted. No other financial reasons available.”

The Ministry reconsideration decision included the original decision chart of 11 lines of dental services with corresponding approved fee amounts and a revised chart for the services on lines 6 through 10.

At the hearing:

The appellant did not appear at the hearing. Section 86(b) EAR permits the panel to proceed with a hearing without the appellant if the appellant was notified of the hearing. The panel confirms that the appellant was sent the notice of hearing to his email address on February 7, 2022. The panel proceeded with the hearing without the appellant.

The Ministry relied on the reconsideration decision and provided the following information:

- 1) It is the Ministry of Health that dictates the dental rates. The insurer then applies those dental rates dictated by the Ministry of Health. The Ministry of Social Development and Poverty Reduction has no discretion about those rates.

- 2) The Ministry may go over the \$1000 limit for basic dental services for emergency dental procedures. In this case the appellant qualified for emergency dental services upon reconsideration. However, the problem is that the Ministry rates still do not line up with what dentist's charge.
- 3) The items in Lines 6 – 10 are the allowed emergency dental services and they were covered up to the set amounts.

The Ministry says there is no room for discretion, and this appellant has received everything he is eligible for. When asked by the panel if there were other resources, the Ministry was not aware of any other additional resources available to this appellant. The Ministry thought that the appellant may be able to advocate with the insurer and the oral surgeon.

Part F – Reasons for Panel Decision

The issue on appeal is if denying the appellant coverage for a portion of his fees for dental services was reasonably supported by the evidence or a reasonable application of the applicable enactment in the circumstances of the appellant.

Relevant legislation:

See Schedule A (legislation) and Schedule B (Fee Schedule- Dentist)

Decision of the panel:

Eligibility for Coverage of Dental Fees in Excess of Ministry Rates

The panel reviewed the treatment plan from the oral surgeon and the costs permitted by the insurer. The panel found that the approved coverage for the treatments listed in items 1 – 10 aligned with the items permitted in the Schedule of Fees – Dentist referred to in Section 1 of Schedule C EAPWDR and found on the Ministry website. The panel found that for each item the amount permitted included the fee amount for an adult with a 10% increase for services provided by a certified specialist.

The Ministry determined that items numbered 6-10 in the Ministry's table qualified as emergency dental services pursuant to s.64 EAPWDR and Schedule C Section 5. The panel finds that given the appellant's need for immediate relief of pain, it was reasonable for the Ministry to determine that these services qualify as emergency dental services.

The panel finds that given the limitations of the Schedule of Fees – Dentist it was reasonable for the Ministry to determine that they do not have the discretion to go above the Schedule of Fees which is referenced in the EAPWDR.

Eligibility for Coverage of Aerosol Generating Procedures (Fee Code 99902)

The panel finds that it was reasonable for the Ministry to deny coverage for Aerosol Generating Procedures, which was point 11 on the chart provided in the reconsideration decision. This procedure and its Fee Code are not found in the Schedule of Fees – Dentist which is referenced in both the basic dental services and emergency dental services definitions in Schedule C, Section 1 EAPWDR .

Eligibility for Coverage as a Life-Threatening Health Need

The panel finds that s.69 EAPWDR only relates to coverage for medical transportation, medical equipment / devices, and some types of medical supplies. This section of the legislation does not provide coverage for basic or emergency dental services. As such, the panel finds that the

Ministry was reasonable in denying the appellant eligibility for dental services as a life-threatening health need.

Eligibility for coverage of dental services as a crisis supplement

The panel finds that s.57 EAPWDR does not cover any items in Schedule C. As dental services are found in Schedule C EAPWDR the panel finds that the Ministry was reasonable in denying the appellant coverage for dental services as a crisis supplement.

Conclusion

The panel confirms the Ministry decision. The appellant is not successful on his 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)

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

Part H – Signatures

Print Name
Meghan Wallace

Signature of Chair

Date (Year/Month/Day)
2022/March/11

Print Name
Rick Bizarro

Signature of Member

Date (Year/Month/Day)
2022/March/11

Print Name
Margarita Papenbrock

Signature of Member

Date (Year/Month/Day)
2022/March/11