

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (“ministry”) dated February 2, 2022, in which the ministry:

1. approved the appellant’s request for coverage of a specific dental examination in excess of the \$1,000 limit for basic dental coverage, up to the maximum ministry rate, as an emergency dental service;
2. approved the appellant’s request for coverage of a lower denture in excess of the \$1,000 limit for basic dental coverage, up to the maximum ministry rate; but
3. did not approve the appellant’s request for coverage of a replacement upper denture and soft lining.

Although the request for reconsideration was received more than 20 days after the appellant was notified of the decision, the ministry found it reasonable to provide a reconsideration decision because the request was late for reasons beyond the appellant’s control.

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act, section 25
Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), sections 57(1)-(3), 63 and 69; Schedule C, sections 1 and 4
Schedule of Fee Allowances - Denturist

Part E – Summary of Facts

A teleconference hearing began on March 23, 2022. The appellant appeared without his advocate. He asked for, and was given, an adjournment because the advocate had asked for additional time to consult a lawyer. The hearing was resumed on April 6, 2022. The appellant's advocate had withdrawn, and the appellant appeared on his own.

Evidence before the Ministry at the Reconsideration:

The appellant is a recipient of disability assistance under the Employment and Assistance for Persons with Disabilities Act ("EAPWDA").

The ministry has authorized Pacific Blue Cross ("PBC") under section 25 of the EAPWDA to assess and approve or reject requests for coverage for dental supplements on behalf of the ministry.

The appellant received a full upper denture on May 9, 2017. On March 3, 2021, he had 4 lower teeth extracted and as a result, needed a full lower denture. The dentist submitted a claim for pre-authorization of coverage to PBC for the following:

Fee code 10104, Specific Nature Exam – Partial dentures - \$84

Fee code 31310, Complete Upper Denture - \$1385

Fee code 31320, Complete Lower Denture - \$1385

Fee code 73008, Soft lining [sic], New Denture - \$430

On May 10, 2021, PBC authorized \$7.27 coverage for the Specific Nature Exam, which was the balance remaining in the appellant's \$1,000 coverage limit for basic dental services between January 1, 2021 and December 31, 2022. PBC did not authorize coverage for the dentures or the soft liner.

On January 11, 2022, the dentist re-submitted a dental claim form to the ministry requesting coverage for the same dental services. The dentist stated "Urgent Response Needed. Patient is struggling with masticating his food due to these ill-fitting dentures. We are requesting earlier eligibility for relief of pain." The appellant confirmed that he was unable to chew food, which was causing inflammation and infection. He also told the ministry that he had lost 20 pounds because he could not eat properly with the upper denture.

On January 27, 2022, the ministry contacted the dentist for further information, asking if the upper denture was damaged, and the dentist replied by email that the dentures were "ill-fitting."

Additional Evidence:

On April 4, 2022, the appellant submitted a letter from the dentist dated March 8, 2022, in which the dentist stated:

“[the appellant] is in desperate need of new complete upper and lower dentures, both of these dentures need to be made at the same time to achieve full function and correct bite when masticating his food, currently with the present dentures they are not able to make serviceable due to worn occlusion and condition. Patient is currently experiencing difficulties eating and proper digestion of food.”

At the hearing the appellant stated that his upper denture is useless, and he only wears it for cosmetic purposes. When he eats, he must remove it and try to chew with his gums. The denturist has told him that the dentures will not fit properly unless both upper and lower are made at the same time, so he has not had the lower denture made yet. Eating without dentures is very painful. The appellant also has COPD (chronic obstructive pulmonary disorder), and when he cannot chew and swallow food properly, he chokes, and the food can go into his lungs. He has been told that his most recent x-rays show food in his lungs, with related inflammation. The ministry did not object to the additional evidence submitted by the appellant. The panel determined that the additional documentary and oral evidence was admissible under section 22(4) of the Employment and Assistance Act because it provides further details about the condition of the appellant’s upper denture and the effect of the lack of new dentures on the appellant’s health and is therefore reasonably required for the full and fair disclosure of all matters relating to the decision under appeal.

Part F – Reasons for Panel Decision

On reconsideration, the ministry approved coverage for the Specific Nature Exam as an emergency dental service, up to \$16, the amount set out for Fee code 10104 in the Fee Schedule – Denturist. The ministry approved coverage for the lower denture over the \$1,000 limit for basic dental services, up to \$581.25, the amount set out for fee code 31320 in the Fee Schedule – Denturist.

The remaining issue on appeal is whether the ministry's decision to deny coverage for the replacement upper denture and soft liner was reasonable.

Legislation:

Under EAPWDR section 63 and Schedule C sections 1 and 4 the ministry may provide a health supplement for "basic dental services" listed in the Schedule of Fee Allowances – Dentist and Schedule of Fee Allowances – Denturist, up to a maximum of \$1,000 in a 2-year period. The current 2-year period runs from January 1, 2021 to December 31, 2022.

Replacement dentures can be provided as a basic dental service to a person whose dentures are more than 5 years old. If the cost of replacement dentures is more than the balance of the person's \$1,000 coverage limit, the ministry can give a denture supplement in excess of the coverage limit, up to the amount set out in the Schedule of Fee Allowances for dentures (Schedule C section 4(6)).

Ministry Policy:

Ministry policy allows for a one-time exemption to the legislative requirement that replacement dentures can only be provided if the original dentures are more than 5 years old, if the dentures being replaced were lost or damaged beyond repair, the loss or damage was beyond the person's control, and failure to provide replacement dentures would result in compromised health.

Appellant's Position:

The appellant maintains that the ministry should approve coverage for a replacement upper denture even though the upper denture is less than 5 years old. The upper denture is useless for chewing food. He only glues it in place for the sake of appearance, removing it when he eats. Since his lower teeth were extracted, he can only try to chew with his gums. He cannot chew his food properly, and as a result he has aspirated food into his lungs, causing inflammation in his lungs and exacerbating his COPD. He has lost 20 pounds because he cannot eat properly. Therefore, his health is compromised because he does not have a replacement upper denture.

The appellant also says that the upper and lower dentures must be made together in order to fit properly, so he cannot get the lower denture that has been approved, unless he can get the upper denture at the same time.

Ministry's Position:*Basic Dental Services – Replacement Denture:*

In its reconsideration decision, the ministry accepted that failure to provide the replacement upper denture could result in compromised health for the appellant. However, at the reconsideration, the ministry maintained that an “ill-fitting” denture was not a “damaged” denture, and therefore the request for a replacement did not meet the requirements of the ministry policy for a one-time exemption to the 5-year requirement.

At the hearing, the ministry agreed that the March 8, 2022 letter from the dentist, describing the upper denture as “not able to make serviceable due to worn occlusion and condition,” did show that the upper denture was damaged, not merely “ill-fitting”.

Life Threatening Health Need:

The ministry says that the appellant is not eligible for coverage of the replacement upper denture as a health supplement for a life-threatening need under EAPWDR section 69 because that section only applies to medical transportation, medical equipment/devices and some types of medical supplies, as set out in EAPWDR Schedule C, section 2(1)(a)-(f) and section 3. Dental and denture supplements are not included in those sections.

Crisis Supplement:

The ministry says that the appellant is not eligible for coverage of the replacement upper denture as a crisis supplement because section 57(3) of the EAPWDR states 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. Dentures are a health care service and are described in Schedule C, therefore the ministry is not permitted to provide a crisis supplement for dentures.

Panel Decision:*Basic Dental Services – Replacement Dentures:*

The panel finds that the appellant's circumstances satisfy the requirements of the ministry policy for a one-time exception to the legislative requirement that replacement dentures can only be provided if the original denture is at least 5 years old.

The additional evidence in the March 8, 2022 letter from the dentist establishes that the upper denture is damaged, because the “worn occlusion and condition” of the upper denture means it is not useable. There is no evidence to suggest that the damage was within the control of the appellant. The evidence of the dentist and the appellant show that failure to have a replacement upper denture has compromised the appellant's health because he cannot chew and digest food properly, he has aspirated food, x-rays have shown inflammation and food particles in his lungs, and he has lost at least 20 pounds.

The panel notes that, even though the appellant's circumstances satisfy the requirements of the ministry policy for an exception to the 5 year replacement rule, coverage will still be limited to the amounts set out in the Schedule of Fee Allowances – Denturist.

Life-threatening Health Need:

EAPWDR section 69 authorizes the ministry to provide general health supplements and certain specified medical equipment, devices and supplies if an eligible person faces “a direct and imminent life-threatening need,” but dental services and dentures are not included as eligible benefits under that section. Therefore, the panel finds that the ministry was reasonable in its decision not to provide coverage for the replacement upper denture and soft liner as a life-threatening health need.

Crisis Supplement:

EAPWDR section 59(3) states that the ministry cannot provide a crisis supplement “for the purpose of obtaining a supplement described in Schedule C” or “for any other health care goods or services.” Dental services and dentures are a supplement described in Schedule C and therefore cannot be provided as a crisis supplement. Therefore, the panel finds that the ministry was reasonable in its decision not to provide a crisis supplement for the replacement upper denture and soft liner.

Conclusion:

The panel finds that, in light of the additional evidence about the damage to the upper denture in the March 8, 2022 letter from the dentist, the ministry's decision not to provide coverage for a replacement upper denture and soft liner is not reasonably supported by the evidence.

The panel rescinds the ministry reconsideration decision to deny coverage for the replacement upper denture and soft liner. The appellant is successful in the appeal.

Schedule A

Legislation:

Employment and Assistance for Persons with Disabilities Act:

Delegation of minister's powers and duties

25 (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, and

(b) the power to enter into an agreement under section 21 (2) or (2.1), unless section 21 (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 conditions the minister considers advisable.

Employment and Assistance for Persons with Disabilities Regulation:

Crisis supplement

57 (1) The minister may provide a crisis supplement to or for a family unit that is eligible for disability 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.

Dental supplements

s. 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.

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

69 (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.

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,

(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;

"denture services" means services and items that

(a) if provided by a dentist

(i) are set out under fee numbers 51101 to 51302 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) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item,

(b) if provided by a denturist

(i) are set out under fee numbers 31310 to 31321 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) are provided at the rate set out in that Schedule for the service or item and the category of person receiving the service or item;

Dental supplements

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

(a) in respect of a person under 19 years of age, 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 63 [*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).

(c) Repealed. [B.C. Reg. 163/2005, s. (b).]

(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 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 disability assistance or income 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.

Fee Schedule – Denturists

Part A -Preamble -Dental Supplements -Denturist

The overall intent of the Ministry of Social Development and Poverty Reduction (Ministry) Dental Supplements is to provide coverage for basic dental 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 -Denturist 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 also include services performed by a dentist.

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 (iv) 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”.

Schedule of Fee Allowances – Denturist Effective September 1, 2017

FEE NO. FEE DESCRIPTION

COMPLETE DENTURES

Note: Dentures are an eligible item once every five years. The replacement of dentures within five years of original insertion will normally not be paid by the Ministry. Refer to Denture Policy in Part A – Preamble to Dental Supplements -Denturist. Any lab costs are included in the stated fee.

Complete denture fees include:

- Impressions, initial and final jaw relation records
- Try-in; evaluation
- Records check
- Insertion
- Adjustments and 6 months post-insertion care including tissue conditioning

31310 Complete Maxillary Denture 581.25

31311 Immediate Complete Maxillary Denture 675.00

Note: Denturists without Oral Pathology must wait 21 days prior to provision of service.

73008 Processed Soft Liner 104.00

Note: Fee item 73008 will only be considered when done in conjunction with fabrication of new complete or partial dentures or reline/rebase of complete or partial dentures. Arch code required.

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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

Susan Ferguson

Signature of Chair

Date (Year/Month/Day)

2022/04/11

Print Name

Nancy Eidsvik

Signature of Member

Date (Year/Month/Day)

2022/04/11

Print Name

Diane O'Connor

Signature of Member

Date (Year/Month/Day)

2022/04/11