

Part C – Decision Under Appeal

The decision under appeal is the reconsideration decision of the Ministry of Social Development and Poverty Reduction (the ministry) dated October 12, 2022, in which the ministry determined that the appellant was not eligible for a specialist exam/diagnosis fee and was eligible for a portion of the cost of a surgical excision only up to the rate set out in the Dental Supplement for the Ministry’s Insurer (PBC), pursuant to section 4 of Schedule C to the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR). The ministry found that the same limitations existed whether for Basic Dental Services or Emergency Dental Services.

The Ministry also determined that the appellant was not eligible for the specialist exam/diagnosis fee or coverage in excess of the rates set out in the Dental Supplement for the surgical excision as either a crisis supplement pursuant to section 57(3) of the EAPWDR or as a life-threatening health need pursuant to section 69 of the EAPWDR.

Appeal Number 2022-0250

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation sections 57, 63, 64, and 69

Schedule C sections 1, 4 and 5

Schedule of Fee Allowances – Dentist and Emergency Dental

Part E – Summary of Facts

The appellant is a recipient of disability assistance.

The information before the ministry at the time of the Reconsideration Decision included the following:

- A letter from a dental clinic confirming the appellant had an exam on September 8, 2022, indicating several dental issues that needed addressed as soon as possible.
- A referral to an oral surgery clinic requesting a pathosis be completed.
- A treatment plan from a dentist indicating the appellant had three visits in September 2022 and that several white fillings on molars and crown are recommended. Total cost for the treatment plan would be \$2,902 with estimated insurance payment of \$447.70 and patient portion of \$2,454.30.
- A patient payment ledger dated September 14, 2022 which lists several dental treatments, with appellant payments totalling \$267.90 and insurance payments totalling \$135.20.
- A prescription receipt for medication in the amount of \$25.57 with a handwritten note from the appellant indicating this was not covered.
- A statement of services rendered from a dental clinic showing a -\$417.10 dental insurance estimate for upcoming appointments in October 2022.
- An account statement from an oral specialist dated September 21, 2022, showing \$180 paid via debit for code 01401, consult pathology.
- Request for Reconsideration (RFR) submitted September 28, 2022. The appellant noted as the reasons for requesting the RFR as:
 - She has had severe toothaches and is unable to chew on either side of her mouth.
 - The dentist has informed her that she will eventually lose the teeth if they are not fixed.
 - Her yearly income is \$15,000 with CPPD and disability combined, and the cost of the dental work is approximately \$3,000 plus what she has already spent.
 - The consultation fee and biopsy amount due is an additional \$387.27, which she should do to find out if she has cancer but cannot afford to pay.
- Pacific Blue Cross statement dated October 11, 2022, indicating:
 - Procedure 01401 Examination and diagnosis, oral pathology \$180 was rejected
 - Procedure 74111 Surgical Excision of Benign Tumor was approved for payment of \$197.23 of the \$585 amount submitted.

Additional Information Submitted After Reconsideration

Notice of Appeal (NOA) form dated October 20, 2022 on which the appellant expounded on their situation:

- Continued toothaches adds to already arthritis pain in neck and shoulder adds to migraines. If teeth are not fixed, the appellant will have to eat with their gums.
- The appellant is 65 and on a fixed income.

The appellant also expressed their frustration with the system and a perceived uncaring attitude to people on assistance requiring dental work.

The appellant also submitted the following:

- A Statement of services rendered at a dentist office dated October 19, 2022 showing work on tooth 37 with insurance payment of \$349 and patient payment of \$175 (along with debit receipt).
- Photos of appellant's tooth 26.
- An X-ray of appellant's teeth.
- A copy of the letter previously submitted confirming the appellant's exam of September 8, 2022.
- A standard dental claim form dated September 16, 2022 for "predetermination of benefits only" regarding codes 23602 and 27201 for tooth 37 with total fee estimate \$1,497.00
- A standard dental claim form dated October 14, 2022 for "predetermination of benefits only" regarding codes 23602, 27201 and 33141 for tooth 17; and codes 23602 and 27201 for tooth 26 with total fee estimate \$4,114.00.

The appellant did not attend the hearing. Upon confirming that the appellant was notified of the date and time, the panel considered the appeal in the appellant's absence as it is authorized to do under section 86(b) of the Employment and Assistance Regulation. The panel will reference the appeal record for the appellant's position.

At the hearing, the ministry relied on its reconsideration decision, and noted specifically that the legislation sets out the rates that are authorized in Schedule C. When asked whether the specialist visit, which was to determine whether a tumour was cancerous, was covered under Medical Services Plan, the ministry did not know whether it could be covered by that plan. However, they noted that the incision and removal was authorized and paid to the rates set in the Fee Schedule and only the specialist visit was not authorized. The ministry added that they have since received the additional requests for other dental work, however those are not part of this Reconsideration Decision.

Admissibility of Additional Information

The appellant submitted numerous pages of information from her dentist which show that, since the Reconsideration Decision, the dentist has submitted the treatment plan to PBC for pre-approval. The appellant did note in her RFR that she had numerous upcoming dental appointments and copies of her treatment plan were included with the RFR. The panel admits the appellant's NOA with the additional information under section 22(4) of the Employment and Assistance Act, which allows for the admission of evidence reasonably required for a full and fair disclosure of all matters related to the decision under appeal.

Part F – Reasons for Panel Decision

The issue under appeal is whether the ministry's decision determining that the appellant is not eligible for coverage of a specialist exam/diagnosis fee, and only a portion of the cost of a surgical excision, was reasonably supported by the evidence or was a reasonable application of the legislation in the appellant's circumstance.

Appellant's Position

The appellant's position is she requires dental work because she has had severe toothaches and is unable to chew on either side of her mouth. She notes that she will require approximately \$3,000 worth of dental work and, with her income being from pension only, she cannot afford this. She requires a biopsy be completed to check for cancer. She has a family history of cancer, however she does not have the extra \$387.77 it will cost her to have it done.

Ministry's Position

The ministry's position is the rates for dental services are authorized through legislation and the Fee Schedule. Based on what PBC authorized, the appellant is not eligible for fee code 01401 for the examination and diagnosis because it is not listed in the Fee Schedule and is eligible for the authorized rate of \$197.23 for fee code 74111 for the surgical excision of the tumor. The additional information the appellant submitted had not yet been submitted to PBC at the time of reconsideration, so noted that these fee codes are all that is under consideration.

Panel Decision

The panel did admit the appellant's additional information submitted after reconsideration because they had been referenced in the RFR, however, the Reconsideration Decision did not include the additional dental work in its scope. At the time of the RFR, the appellant's treatment plan had not been submitted, or had not received approval, from PBC. Only the two fee codes in question had been considered. As a result, the panel will not be reviewing the eligibility for the additional dental work in this decision.

Coverage of Basic Dental

Section 63 of the EAPWDR says the minister may provide a health supplement set out in section 4 (dental supplements) of Schedule C to a family unit in receipt of disability assistance. The appellant is a recipient of disability assistance, so this criterion is not at

issue in this appeal.

Eligibility for Coverage for Fee Codes 01401 and 74111

EAPWDR Schedule C, Section 1 defines "basic dental service" as a service that, if provided by a dentist, is set out under fee codes in the Fee Schedule, and which is **provided at the rate set out in the Fee Schedule** for a particular service and the category of person receiving that service. Because the services in question are provided by a dentist, the Panel finds that the Ministry reasonably determined that they meet the definition of a "basic dental service".

The panel notes that fee code 01401 – Examination and Diagnosis, Oral Pathology, General does not show up in the Fee Schedule. When reviewing the Fee Schedule, the panel finds the closest code is 01601 – Examination and Diagnosis, Surgical by Oral Surgeon. There is no evidence to suggest that the incorrect fee code was submitted, and a note written by the appellant on the bottom of the dentist referral indicates the \$180 fee is not covered by MSP and must be paid at the time of the appointment. Because fee code 01401 is not recognized in the Fee Schedule, and the legislation makes no provision for the ministry to accept fees not in the Fee Schedule, the panel finds the ministry reasonably determined the appellant did not qualify for coverage for fee code 01401.

Fee Code 74111 – Resection of benign tumor of soft tissue 1cm and under - authorizes \$197.23 for an Adult. The dentist submitted a cost of \$585 for this procedure, PBC authorizes \$197.23, leaving the appellant portion as \$387.77. Because the Fee Schedule authorizes fee code 74111 to be paid at \$197.23, and the legislation does not allow the ministry to approve any amount above this fee, the panel finds the ministry reasonably determined the appellant is eligible only for the amount authorized.

Emergency Dental Services

Section 64 of the EAPWDR says the minister may authorize emergency dental supplements as set out in section 5 of Schedule, which are described under definitions of "emergency dental services".

"emergency dental service" means a dental service necessary for the immediate relief of pain that, if provided by a dentist, is set out in the Schedule of Fee Allowances –
Emergency Dental – Dentist

The ministry determined the appellant did not qualify for emergency dental services because they are not able to pay more than the rates set in the fee schedule. The appellant was requesting payment of a consultation fee which is not authorized in the Fee

Schedule and one that was found eligible for the incision work as a “basic dental service” to the rates authorized. The panel finds the ministry was reasonable in determining that the appellant is not eligible for these fee codes as emergency dental services.

Dental Services as a Life-Threatening Health Need or Crisis Supplement

The panel finds the ministry reasonably determined that the appellant is not eligible for coverage of the requested fee codes as a life-threatening health need. The ministry stated correctly that section 69 only applies to medical transportation, medical equipment / devices, and some type of medical supplies; dental and denture supplements are not set out in these sections. While the appellant reports that she has toothaches, the panel finds there is no evidence that the appellant needs the dental work to avoid a life-threatening situation.

The panel also finds the ministry was reasonable when it denied coverage for the requested dental work as a crisis supplement. The ministry correctly quoted and interpreted section 57(3) which 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.

Conclusion

The panel concludes that the ministry’s determination that the appellant is not eligible for the dental treatments in excess of the rates set out in the Fee Schedule and pursuant to section 63 EAPWDR and section 4 of Schedule C is a reasonable application of the legislation in the appellant’s circumstances; the panel confirms the decision. The appellant is not successful in this appeal.

APPENDIX A Relevant Legislation

EAPWDR

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.

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.

Schedule C Health Supplements

Definitions

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.

Dental Supplements

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).

(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.

Emergency dental supplements

Section 64 of the EAPWDR says the minister may authorize emergency dental supplements as set out in section 5 of Schedule, which are described under definitions of "emergency dental services".

"emergency dental service" means a dental service necessary for the immediate relief of pain that, if provided by a dentist, is set out in the Schedule of Fee Allowances –
Emergency Dental - Dentist

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.

Section 69 of the EAPWDR authorizes the Ministry to pay out certain types of medical supplements for persons facing a direct and imminent life threatening need:

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).

APPEAL NUMBER 2022-0250

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

Janet Ward

Signature of Chair

Date (Year/Month/Day)

2022/11/09

Print Name

Wesley Nelson

Signature of Member

Date (Year/Month/Day)

2022/11/09

Print Name

Jan Broocke

Signature of Member

Date (Year/Month/Day)

2022/11/09