

Part C – Decision Under Appeal

The decision under appeal is the Reconsideration Decision (RD) of the Ministry of Social Development and Poverty Reduction (the Ministry), dated October 11, 2022, which denied the Appellant’s request for an exam, a cone-beam computed tomography (CBCT) scan, and a crown on teeth #44 and #16 (collectively, the Dental Work).

Specifically, the Ministry determined that the Appellant is not eligible for coverage of the Dental Work as a basic dental service under the Schedule of Fee Allowances – Dentist, Emergency Dental – Dentist, effective September 1, 2017 (the Fee Schedule), as an emergency dental service, as a crown and bridge supplement, as a crisis supplement, or because it represented a direct and imminent life threatening health need.

Part D – Relevant Legislation

Employment and Assistance Act (EAA), Sections 22(4) and 24(1)

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), Sections 57, 63, 63.1, 64, and 69

EAPWDR, Schedule C, Sections 1, 4, 4.1, and 5

The Fee Schedule

The relevant legislation is provided in the Appendix

Part E – Summary of Facts

The Appellant is a recipient of disability assistance.

According to information included in the Ministry's RD:

- On September 15, 2022, the Appellant submitted a Predetermination Explanation of Benefits form (the PEB Form) from Pacific Blue Cross (PBC) indicating that PBC had denied the Appellant's request for the cost of a consultation (exam) and a CBCT scan because they are not a covered benefit under the Appellant's plan;
- On September 27, 2022, the Appellant submitted a request for reconsideration (RFR);
- PBC denied the Appellant's request for coverage of the cost of a Crown on two of her teeth on October 3, 2022. Details of the Appellant's request and the reasons for PBC's decision are provided in the summary of the information in the PBC Claim Assessment evidence summary below; and
- On October 6, 2022, the Ministry asked PBC to provide the documentation provided by the Appellant's dentist (the Dentist) concerning her request for coverage. Details of the information contained in the documentation provided are detailed in the summary of the information in the Standard Dental Claim Form and the X-Rays evidence summaries below.

The evidence before the Ministry at reconsideration included the Appellant's RFR, dated September 27, 2022, which included:

- The Appellant's reasons for the RFR, which were she wrote were as follows:
"I have been having chronic infections on three of my teeth that have had root canal done many years ago. The chronic infections caused a lot of pain and discomfort and I have endured it for many years due to lack of funds for proper treatments. Because my body absorbed the reinfections and redistributed and circulated it to other areas of the body, I have been very ill chronically for many years that sent me to the hospital ER department a few times. My dentist (has) also advised me that if I don't seek help from (an endodontist) immediately, I may lose those teeth. Once I am assessed by the endodontist he will advise on a treatment plan. The treatment plan may include retreatment of the root canal. Then a crown on top of each affected tooth, or if the damage of the infection is too severe that the teeth are no longer salvageable, he may need to extract the teeth and do implants on it at a later date. I ... ask the Ministry to ... allow funding for any treatment plans the endodontist may have after consultation. I am currently not working due to illness and I have no financial means to pay for the consultation nor the treatment ... I am in constant pain and discomfort ...";

- A one-page letter, dated September 15, 2022 and addressed “To Whom it May Concern”, referring to the Appellant and signed by a mental health and poverty law advocate representing a community social services agency. The letter says, in part, that the advocate was hoping that the Ministry could assist the Appellant in *“obtaining (the) ... funding to complete the dental work deemed necessary for her health by the Dentist and Orthodontist ... I believe that (the Appellant) would benefit greatly from securing this funding as it would allow her to access additional health benefits as well as giving her a strong foundation to focus on attending to her emotional and physical health needs”*;
- A two-page predetermination explanation of benefits (PEB) form in the name of the Appellant with a submission date of August 29, 2022 (the PEB Form). The PEB Form lists two procedures: a consultation and a CBT scan, with charges of \$140 and \$150 respectively, for a total charge of \$290;
- A two-page PBC document titled “AUTHORIZED PRODUCTS AND SERVICES”, dated October 3, 2022 (the PBC Claim Assessment), which provides the results of PBC’s assessment of a claim for dental service coverage made by the Appellant on September 21, 2022. The PBC Claim Assessment indicates that three dental services included in the Appellant’s September 21, 2022 claim were not approved for funding, as follows:
 - A claim for one crown, fused to metal base, showing an amount submitted of \$1,194.00 and an amount approved of \$0.00. The reasons given for denial of coverage are that *“(t)he documentation provided does not indicate that the dental condition precludes the provision of restorative services set out under the restorative services section the Ministry Fee Schedule, the clinical explanation submitted does not confirm that (the Appellant) needs cannot be met through the Ministry basic dental program, and the information provided does not confirm that one of the (four) circumstances listed (in EAPWDR Schedule C, Section 4.1(2) applies)*;
 - A claim for one full cast metal crown, showing an amount submitted of \$1,194.00 and an amount approved of \$0.00. The reasons given for denial of coverage are the same as listed under the previous bullet; and
 - A claim for an examination and a CBCT scan, showing amounts submitted of \$140.00 and \$150.00 respectively, and an amount approved of \$0.00. The reasons given for denial of coverage are that neither dental service is a covered benefit under the Appellant’s plan;
- A one-page document titled “PREDETERMINATION – STANDARD DENTAL CLAIM FORM” (the Standard Dental Claim Form), prepared by the Appellant’s Dentist on behalf of the Appellant and dated September 2, 2022. The Standard Dental Claim

Form lists dental services for two of the Appellant's teeth, both identifying procedure code 27201, and each showing a total charge of \$1,194.00, for a combined total claim in the amount of \$2,388.00. In response to the question "*Are any dental benefits or services provided under any other group insurance or dental plan, W.C.B. or gov't plan?*" on the Standard Dental Claim Form, the Appellant has ticked "yes" and provided the name of the other insuring agency (Manulife Financial) and the policy number; and

- Two pages comprising eight X-Ray images of the Appellant's teeth.

Additional Information

In the Notice of Appeal (NOA), dated October 13, 2022, the Appellant wrote "*I have had chronic infections on my teeth for many years. It affected all aspects of my life especially my health. I desperately need help. Please help*".

On December 14, 2022, the Appellant submitted a five-page document containing additional evidence (the Appellant Submission). In addition to a cover e-mail, the Appellant submission comprised:

- A two-page document titled "*Pre Treatment Estimate*" identifying the Appellant as "*Patient*" and dated November 24, 2022 (the Estimate). The Estimate lists nine treatments on three of the Appellant's teeth (#36, #37, and #12). The Estimate was provided by an endodontist on November 24, 2022, with estimates for the services totalling \$7,150, deductibles totalling \$0, amount covered by insurance of \$0, and a total estimated charge due to the Appellant of \$7,150;
- A one-page consultation report from an endodontist and addressed to the Dentist, dated November 20, 2022, regarding the results of an examination of two of the Appellant's teeth (the Consultation Report). The Consultation report says, in part:

"Patient complains of periodic pain and gingival swelling near #36, #37 and near #12 for over 10 years. Patient also reported fever and stuffy nose that were often associated with gingival swelling ... cone-beam computed tomography scan revealed large size radiolucencies associated with #36 and #37 root apexes, both lesion(s) are close to the inferior alveolar nerve. #37 had more percussion pain than #36. #12 also has small apical radiolucency but with noticeable apical palpation pain. I have recommended endodontic Retreatment on #37, #36 and #12. I am uncertain that the fever and stuffy nose symptoms are indeed related to root canal infections, and have recommended patient to see a Rheumatologist". The Consultation Report also includes eight x-Rays and photographic images of the Appellant's teeth;
- A one-page letter from the Dentist addressed "*To Whom it May Concern*" and dated December 13, 2022 (the Dentist's Letter). The Dentist's Letter refers to their patient

(the Appellant) and her recent consultation with the endodontist *"to diagnose the suspected ongoing infections and irritation that (the Appellant) has been experiencing"*. The Dentist's Letter also says:

"I performed a root canal on (two of the Appellant's other teeth) ... in the past. I strongly advised (the Appellant) to have 2 crowns completed to help protect the integrity of the root canals to prevent potential future damage or infections of those 2 teeth. I am supportive in the fact that I believe this is necessary for (the Appellant) to have these dental procedures and that they will benefit the health and life of (the Appellant). The infections have brought (the Appellant) pain, and I believe to have led to overall health issues, but this is something I cannot state for certain".

Evidence Presented at the Hearing

The Appellant was also represented at the hearing by an advocate (the Advocate).

At the hearing, speaking on behalf of the Appellant, the Advocate said that the Appellant was challenging the Ministry's RD because *"Ministry policy"* allows the Ministry to provide a dental supplement if there is a *"direct and imminent health need"*. The Advocate argued that the additional evidence contained in the Appellant Submission confirms that not providing a dental supplement for the Dental Work would have a severe impact on the Appellant's health.

The Appellant said that her body has been fighting an infection for 10 to 15 years, and that blood tests have shown that her white blood cell count is two to three times higher than normal. She said that medical professionals have been unable to identify the cause of her abnormally high white blood cell counts, and that she takes anti-inflammatory medication to address the chronic fevers and gum-swelling she experiences as a result of the infection. In response to a question from the Panel, the Appellant confirmed that the periodic pain and gum swelling she is experiencing is present near teeth #36, #37 and #12, as stated in the Consultation Report. She said that because of the pain she experiences as a result of the chronic infection she chews on the other side of her mouth, and has done so constantly for many years. She said that her body *"metastasizes and temporarily relocates the infection to other parts of (her) body"*. She also said that she has also developed ulcers from anti-inflammatory drugs and that she is unable to take Naproxen. She said that medical professionals have told her *"(t)he active infection won't go away on its own. Taking medications are not a preventative action ... (my impairments) affect all aspects of my life"*.

Regarding a conclusive diagnosis of the cause of her chronic infection, the Appellant said that medical professionals have told her that it is difficult to make a connection between her high white blood cell count and her *"tooth problems"*, adding *"(t)he doctor and the dentist can't converse - it's hard to make that happen. Everyone is inconclusive and uncertain."*

I can't get anyone to say (that there is a direct link between the high white blood cell count and the problems with my teeth)."

In response to a question from the Ministry, the Appellant said that she has not been prescribed antibiotics for her infection because her doctor isn't sure of the cause of her infection. In response to another question from the Ministry, the Appellant said that the Dentist had referred her to an endodontist because the Dentist was not confident that he could treat her for the required additional crowns for teeth #36, #37 and #12 as the Dentist *"doesn't have knowledge in a situation where there is an infection and doesn't have the (necessary dental equipment)"*.

In response to a question from the Panel about whether her doctor had referred the Appellant to a rheumatologist as recommended by the endodontist in the Consultation Report, the Appellant said that she has not yet seen a rheumatologist but will be asking her doctor to make a referral.

In response to another question from the Panel about whether the Appellant had considered applying for coverage from Manulife Financial under the policy identified in the Standard Dental Claim Form, the Appellant said that that insurance was no longer in effect because it had been provided by a previous employer for whom she no longer worked.

The Ministry relied on the RD, emphasizing that the legislation does not permit coverage for any of the Dental Work in the Appellant's circumstances because the fee codes relating to the Dental Work do not appear in the Fee Schedule and the Ministry does not have the discretion that would allow it to make any exceptions to the types of dental services it's permitted to provide under the legislation.

When asked by the Appellant to explain in more detail the circumstances under which a crown and bridge supplement could be provided under EAPWDR Schedule C, Section 4.1, the Ministry said that eligibility depends on some very specific criteria. The criteria are that the problem can't be corrected through the basic dental services (because the dental condition can't be addressed by a *"restorative service"*), and because one of the other specified circumstances exists. The circumstance listed in the legislation are:

- The dental condition won't permit the use of a *"removable prosthetic"*;
- The person has a physical impairment that makes it impossible for them to use a removable prosthetic;
- The person has an allergic reaction or other intolerance to the materials used in a removable prosthetic; or,
- The Person has a mental condition that makes it impossible for them to assume responsibility for a removable prosthetic.

In response to a question from the Panel, the Ministry said that a removable prosthetic would include both partial and full dentures.

In response to a question from the Appellant about what kind of physical or mental conditions might make it impossible for a person to use a removeable prosthetic, the Ministry said this would include any physical condition under which the person has no way of putting in or taking out dentures on their own, or was mentally incapable of putting in or taking out the dentures. The Appellant said that her disabilities were both physical and mental, and resulted from multiple concussions she suffered as a result of a car accident.

The Advocate asked the Ministry whether the Appellant might qualify for root canals because they appear in the Fee Schedule under "*periapical services*" as service codes 34111 through 34264. The Ministry said that the Appellant might qualify for partial coverage under this provision. In response to a related question from the Appellant, the Ministry said yes, the Appellant would have to fill out a new application for coverage for root canals. There followed a discussion about whether the new application would have to be completed by the Dentist or an endodontist in the Appellant's circumstances. In the end, the Appellant was advised to contact the Ministry by phone to ensure that an application was properly completed if she wished to proceed with one.

Admissibility of New Evidence

Section 22(4) of the *Employment and Assistance Act* (EAA) says that a panel may consider evidence that is not part of the record that the panel considers to be reasonably required for a full and fair disclosure of all matters related to the decision under appeal. Once a panel has determined which additional evidence, if any, is admitted under EAA Section 22(4), instead of asking whether the decision under appeal was reasonable at the time it was made, a panel must determine whether the decision under appeal was reasonable based the requirements set out in the legislation and on all admissible evidence.

New evidence that the Ministry didn't have when it made its RD comprises:

- In the NOA, the Appellant's assertion that:
 - Her body "*absorbed the reinfections and redistributed and circulated it to other areas of (her) body*" and caused her to have to visit the hospital ER department a few times;
 - Her dentist told her she might lose some of her teeth if she didn't immediately seek help from an endodontist. Once she has been assessed by an endodontist she will have a treatment plan; and,
 - The treatment plan that the endodontist recommends might include retreatment of one or more of the root canals, a crown on top of each affected

tooth, or if any of her teeth are not salvageable, tooth extractions followed by implants on a later date.

- In the Estimate (forming part of the Appellant Submission), the estimated cost of treatments to three of the Appellant's teeth (#36, #37 and #12);
- In the Consultation Report (also forming part of the Appellant Submission), the endodontist's explanation of the results of the examination of teeth #36, #37 and #12, the endodontist's recommendation for endodontic retreatment of those teeth, and the statement *"I am uncertain that the fever and stuffy nose symptoms are indeed related to root canal infections, and have recommended patient to see a Rheumatologist"*;
- In the Dentist's Letter (also forming part of the Appellant Submission), the Dentist's statement that the Dentist:
 - Performed root canals on the Appellant's two teeth that are the subject of this appeal;
 - *"(S)trongly advises"* the Appellant to have these two crowns retreated by an endodontist to *"help protect the integrity of the root canals to prevent potential future damage or infections"*;
 - Believes it is necessary for the Appellant to have the recommended dental procedures done as they will benefit her *"health and life"*, and the Appellant's infections have led to overall health issues, but *"this is something (the Dentist) cannot state for certain"*.
- At the hearing, the Appellant's assertion that her white blood cell count is two to three times higher than normal, that medical professionals have told her that it is difficult to make a connection between her high white blood cell count and her tooth problems, the fact that the Manulife Financial dental plan insurance was no longer in effect, and the nature and circumstances of the accident that led to the Appellant being designated as a person with severe physical and mental impairments.

In deciding whether to admit any new evidence, a panel must first consider the Ministry decision under appeal, and then assess whether the new information is reasonably required for a full and fair disclosure of all matters relating to that decision. If the new information is reasonably required to assess the reasonableness of the decision in hand, a panel must admit it and assign it weight.

The decision under appeal in this case is the Ministry's decision to deny the Appellant's request for an exam, a CBCT scan, and a Crown on her teeth #44 and #16. Much of the information contained in the Appellant Submission and provided at the hearing concerns

the Appellant's need to have teeth #44 and #16 retreated by an endodontist and her need to have dental treatments (root canals and crowns) on teeth #36, #37 and #12. As these dental treatments were not part of the Appellant's original request for dental treatments and were therefore not addressed by the Ministry in the RD, the Panel has no basis upon which to admit any of this new evidence.

The Panel admits the new evidence presented by the Appellant at the hearing about her high white blood cell count and about her infections being redistributed and circulated to other areas of her body. The Panel also admits the Appellant's evidence that medical professionals have not been able to firmly establish that her infections relate to the problems she is having with her teeth and that the problems might have led to broader health problems. However, the Panel notes that the Dentist is not able to confirm that the Appellant's broader health problems are a result of her need for the Dental Work or any of the other dental treatments referred to in the new evidence.

In addition, no new evidence has been provided by any medical professionals (either medical or dental practitioners) resulting in a diagnosis that connects the pain and swelling in the Appellant's gums to her broader health problems. Neither have any test results been provided to confirm that the Appellant's white blood cell count is high, how high it is, or what the implications might be. The Panel further notes that the recommended consultation with a rheumatologist, which might provide additional evidence, has not yet taken place.

Because the information provided by the Appellant about her high white blood cell counts and their impact on her health, and any possible links between her dental problems and her overall health has not been confirmed by any medical professionals, the Panel assigns little weight to this new information. It is unclear whether medical opinions regarding the Appellant's white blood cell counts would have affected the Ministry's RD.

Part F – Reasons for Panel Decision

EAA Section 24(1) limits a panel's authority to render a decision as the result of an appeal to determining whether the decision being appealed is reasonably supported by the evidence or is a reasonable application of the applicable enactment in the circumstances of the Appellant. With respect to this appeal, the Panel must determine whether the Ministry's RD dated October 11, 2022, which denied the Appellant's request for the Dental Work, was reasonable based on the legislation and the available evidence.

In other words, was it reasonable for the Ministry to deny the additional coverage because the dental services included in the request for Dental Work in this instance are not set out in the Fee Schedule, and that as a result the Ministry is not authorized to provide coverage for the Dental Work? And was it reasonable for the Ministry to deny coverage for the Dental Work because none of the Dental Work met the definition of a "*Basic Dental Service*" or an "*Emergency Dental Service*"? And was it reasonable for the Ministry to deny coverage for the Dental Work because none of the Dental Work met the requirements for coverage as either a life threatening health need or as an eligible crisis supplement?

Position of the Parties

The Appellant's position is that she needs to have crowns redone on two of her teeth and root canals and crowns on three other teeth, and that she doesn't have the financial resources to cover the cost. She needs the dental procedures done because she has been suffering from pain and infections for the past ten to fifteen years as a result of her dental problems, and those infections are spreading to other parts of her body.

The Ministry's position is that it is not authorized to provide coverage for the Dental Work because, as it is not listed in the Fee Schedule, it is not considered a basic or emergency dental service. In addition, the Dental Work does not meet the eligibility requirements for a crown and bridgework supplement, nor is the Ministry authorized to provide coverage for the Dental Work as a life threatening health need or as a crisis supplement.

Panel Decision**Basic Eligibility**

In the RD, the Ministry said that the Appellant was eligible for coverage of basic dental services, so this criterion is not at issue in this appeal.

Eligibility for Coverage for an Exam, a CBCT Scan, or Crowns as a Basic Dental Service or an Emergency Dental Service

In the RD, the Ministry said it was only authorized to provide coverage for dental services included in the Fee Schedule and that the requested Dental Work is not included in the

basic dental or emergency dental sections of that schedule. The Ministry gave the statutory definitions of "*basic dental services*" and "*emergency dental services*", both of which require that the services, if provided by a dentist, "*must be set out in*" the relevant section of the Fee Schedule. Because the Fee Schedule doesn't include any of the services included in the Dental Work, the Ministry said that it was unable to provide the Appellant with coverage for any of the Dental Work, and that it had "*no discretion in this matter*".

Having reviewed the legislation, in particular the statutory definitions of "*basic dental services*" and "*emergency dental services*" as provided in EAPWDR Schedule C, Section 1, the Panel finds that the Ministry reasonably determined that the Ministry was unable to provide coverage for the Dental Work as a basic dental service or an emergency dental service.

Eligibility for Coverage of a Crown, fused to metal base and a full cast metal Crown (fee code 27201 or alternatively 27301 and 27211) as a Crown and Bridgework Supplement

In the RD, the Ministry, referring to the statutory definition of "*crown and bridgework*", said that it must be provide by a dentist and "*must be set out in*" the relevant section of the Fee Schedule. Because the section of the Fee Schedule that deals with a crown and bridgework supplement doesn't include any of the services included in the Dental Work, the Ministry said that it was unable to provide the Appellant with coverage.

The Ministry also noted that the Dentist originally requested coverage of a porcelain/ceramic/polymer glass crown, (fee code 27201). In the RD, the Ministry also considered whether the Appellant might have been eligible for "*alternate services*" (i.e., fee code 27211 for tooth #44 and fee code 27301 for tooth #16). To be eligible for coverage as an alternative service, the Ministry determined that the Appellant would have had to satisfy the criteria as set in the legislation, that is, that the person has a dental condition that cannot be corrected through basic dental services because their dental condition won't allow for "*restorative services*" as described in the restorative services section of the Fee Schedule, and one of the following circumstances apply: the dental condition does not allow for the use of a "*removable prosthetic*", the person has a physical impairment that makes it impossible for them to use a removable prosthetic, the person has an intolerance to the materials used in a removable prosthetic, or the person has a mental condition that makes it impossible for them to assume responsibility for a removable prosthetic.

In the RD, the Ministry determined that, based on the information provided by the Dentist, it was satisfied that the Appellant's dental condition could not be corrected by restorative services, but that the information submitted with the Appellant's request does not establish that she is unable to use a removeable prosthetic for one of the listed reasons.

Having reviewed the legislation, in particular the statutory definitions of “*crown and bridgework*” as provided in EAPWDR Schedule C, Section 4.1(1) and the qualifying criteria expressed in Section 4.1(2), the Panel finds that the Ministry reasonably determined that the Ministry was unable to provide coverage for the Dental Work as crown and bridgework supplement.

Eligibility for Coverage as a Life-Threatening Health Need

In the RD, the Ministry determined that the Appellant did not qualify for coverage for the Dental Work as a life-threatening need because the statutory provisions for this type of coverage only apply to medical transportation, medical equipment or devices, and some types of medical supplies.

While EAPWDR Schedule C, Sections 2(1) and 3 do restrict coverage to medical transportation, medical equipment or devices and some types of medical supplies, EAPWDR Section 69 also says that the person must face “*a direct and imminent life threatening need*”. The Panel notes that no evidence has been presented to indicate that the Appellant’s life is threatened if the Dental Work is not covered.

Regarding the Advocate’s argument as presented at the hearing that Ministry policy allows the Ministry to provide a dental supplement if there is a “*direct and imminent health need*”, the Panel notes that the Ministry has no policy discretion in this matter and, in any event, the legislation requires that the direct and imminent health need must also be life-threatening.

Having reviewed the legislation, the Panel finds that the Ministry reasonably determined that the Ministry was unable to provide coverage for the Dental Work as a life-threatening need.

Eligibility for Coverage of Dental Services as a Crisis Supplement

In the RD, the Ministry determined that it could not provide a crisis supplement for the Dental Work because the dental services the Appellant requested are health care services as described in EAPWDR Schedule C and the legislation says that a crisis supplement can’t be provided for a Schedule C service.

The Panel notes that indeed EAPWDR Section 57(3)(a) says that a crisis supplement may not be provided to obtain a supplement described in EAPWDR Schedule C, and that dental services are described in Schedule C. Therefore, the Panel finds that the Ministry reasonably determined that it could not provide coverage for the Dental Work as a crisis supplement.

Conclusion

Having considered all the evidence, the Panel finds that the Ministry's RD was a reasonable application of the applicable enactment in the circumstances of the Appellant, and was reasonably supported by the evidence. Accordingly, the Panel confirms the Ministry's decision, and the Appellant is not successful in her appeal.

* * * *

The Panel sympathizes with the Appellant in this appeal, for which the Panel must determine the reasonableness of the Ministry's decision. In this case the RD is limited to a denial of the Appellants request for an exam, a CBCT scan, and a crown on teeth #44 and #16. Over the course of this appeal, the Appellant asked for coverage for the retreatment of the dental procedures that were denied, root canal work on several of the teeth, and crowns for additional teeth. The Appellant has the opportunity to apply for coverage for root canal work and/or crowns for any of her teeth.

Appendix - Legislation

EMPLOMMENT 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 ...

(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

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 ...

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 ...

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 ...

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 ...

"dentist" means a dentist registered with the College of Dental Surgeons of British Columbia continued under the *Health Professions Act*;

"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 ...

"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 ...

Dental supplements

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

(b) ... 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 ...

(b) \$1 000 each period ...

(2) Dentures may be provided as a basic dental service only to a person ...

(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, ...

(c) a person who has been a recipient of disability assistance ... for at least 2 years ...

(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 ...

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.

(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

5 The health supplements that may be paid for under section 64 [*emergency dental and denture supplements*] of this regulation are emergency dental services.

EMPLOYMENT AND ASSISTANCE ACT

Panels of the tribunal to conduct appeals

22(4) 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.

Decision of panel

24(1) After holding the hearing required under section 22 (3) [*panels of the tribunal to conduct appeals*], the panel must determine whether the decision being appealed is, as applicable,

(a) reasonably supported by the evidence, or

(b) a reasonable application of the applicable enactment in the circumstances of the person appealing the decision.

(2) For a decision referred to in subsection (1), the panel must

(a) confirm the decision if the panel finds that the decision being appealed is reasonably supported by the evidence or is a reasonable application of the

applicable enactment in the circumstances of the person appealing the decision,
and

(b) otherwise, rescind the decision, and if the decision of the tribunal cannot be implemented without a further decision as to amount, refer the further decision back to the minister.

APPEAL NUMBER 2022-0240

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

Simon Clews

Signature of Chair

Date (Year/Month/Day)

2022/12/28

Print Name

Effie Simpson

Signature of Member

Date (Year/Month/Day)

2022/12/28

Print Name

Kenneth Smith

Signature of Member

Date (Year

2022/12/28