

**Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (the “Ministry”) reconsideration decision of January 20, 2023 (the “Reconsideration Decision”). The Ministry determined that the Appellant was eligible for a denture supplement for a complete set of standard maxillary dentures (the “Dentures”) but the amount could not be greater than the rate set out for the Dentures, under Fee Code (31310) in the Schedule of Fee Allowances -- Denturist (the “Denturist Schedule”).

**Part D – Relevant Legislation**

*Employment and Assistance for Persons with Disabilities Regulation* (“EAPWDR”)  
Sections 63, 63.2, 64, Schedule C- section 1

**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 Dental Supplement – Denturist, which includes the Denturist Schedule and the Schedule of Fee Allowances – Emergency Dental (the “Emergency Schedule”);
- A handwritten note from the Appellant, which is partially redacted, in which the Appellant was asking for assistance with payment for the Dentures;
- The Appellant’s Request for Reconsideration, dated December 30, 2022, in which the Appellant explained that:
  - she had paid for the first half of the cost of the dentures on a credit card;
  - the second half of the costs of the dentures would be partially covered; and
  - the Appellant took advantage of resources such as food banks and thrift stores and was having trouble paying the interest on the portion of the dentures paid with a credit card.

The Appellant’s Notice of Appeal was filed on January 27, 2023 and included a second reconsideration with a further handwritten note from the Appellant in which the Appellant stated that:

- the denial of the supplement is like saying to “go live on the streets”; and
- the Appellant could, if necessary, provide copies of credit card statements.

At the hearing of the appeal, the Appellant stated that she understood the Reconsideration Decision. The Appellant also described having initially paid \$978.00 on a credit card for the Dentures and was paying interest on that payment. The Appellant noted that, including the supplement payable by the Ministry, she would still be out of pocket about \$1,400.00 for the Dentures, which had a total cost of \$1,870, according to the Reconsideration Decision.

The Appellant also described managing money effectively and stated that she simply needed a little extra money to pay toward the interest on the portion of the Dentures which was paid for using a credit card.

The Appellant noted that her old dentures were approximately 14 years old and due for replacement, having cracked several times.

The Ministry stated that it had no discretion to pay any more towards dental supplements than the amount set out for the applicable service in the applicable fee schedule which, in this case, is the Denturist Schedule.

**Part F – Reasons for Panel Decision**

The issue in this appeal is whether the Ministry reasonably determined that the Appellant was not eligible for a denture supplement for the Dentures in an amount greater than the rate set out for the Dentures under Fee Code (31310) in the Denturist Schedule.

***Panel Decision***

In this case, the Appellant made a request for a supplement to cover the cost of the Dentures. Supplements for dental services are available if:

- the Appellant meets the basic eligibility requirements set out in the EAPWDR; and
- coverage for the service is available as either a “basic dental service” or an “emergency dental service”, as those terms are defined in section 1 of Schedule C to the EAPWDR.

The definitions of both “basic dental services” and “emergency dental services” set out that supplements can only be provided for dental services:

- that are listed in the fee schedules; and
- at the rate associated with the fee code for the service.

In effect, Schedule C to the EAPWDR limits the amount that the Ministry can provide in two ways. First, the service requested must be a service that is set out in the applicable fee schedule. Second, the Ministry may only provide a supplement for the service at the rate provided for in that fee schedule. The Ministry cannot pay a supplement for a dental service at a higher rate than what is set out in the fee schedules

In the case of the Dentures, they are a service set out in the Denturist Schedule. What this means is that the Ministry has the authority to provide a supplement for the Dentures. However, the amount that the Ministry is permitted to pay for the Dentures for an adult is just \$581.25. Unfortunately, the Ministry simply does not have any legal authority to provide a supplement at a higher rate than the \$581.25 set out in the Denturist Supplement.

The panel finds that the Ministry was reasonable in determining that it did not have any legal authority to provide a supplement for the Dentures at a rate in excess of that set out in the Denturist Schedule. The panel therefore confirms the Ministry’s decision; the appellant is not successful on appeal.

## ***Applicable Legislation***

Section 63 of the EAPWDR sets out the basic eligibility for dental supplements:

### **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.

Section 63.2 of the EAPWDR sets out the basic eligibility for denture supplements:

### **Denture supplement**

**63.2 (1)** Subject to subsection (2), the minister may provide any health supplement set out in section 4.2 [*denture supplements*] of Schedule C to or for a family unit in receipt of hardship assistance.

(2) A person is not eligible for a health supplement under subsection (1) unless

- (a) the person is not eligible for a supplement under section 63 [*dental supplements*], and
- (b) the person has had tooth extractions that were performed in the last 6 months because of pain and resulted in the person requiring a full upper denture, a full lower denture or both.

Section 64 of the EAPWDR sets out the basic eligibility for emergency dental and denture supplements:

### **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.

Section 1 of schedule C to the EAPWDR limits the services for which a supplement may be provided and limits the amount of such supplements by its definitions of "basic dental service" and "emergency dental service":

**"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;

**"emergency dental service"** means a dental service necessary for the immediate relief of pain that,

- (a) if provided by a dentist,
  - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Dentist, that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
  - (ii) is provided at the rate set out in that Schedule for the service and the category of the person receiving the service, and
- (b) if provided by a denturist,
  - (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Denturist, that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
  - (ii) is provided at the rate set out in that Schedule for the service and the category of the person receiving the service;

Finally, the Denturist Schedule sets out the limit on the amount the Ministry may pay for the Dentures, which have a fee code of 31310:

**MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION****Schedule of Fee Allowances – Denturist**  
**Effective September 1, 2017**

FEE NO.	FEE DESCRIPTION	FEE AMOUNT (\$)	
		Adult	Child
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	1007.00

2023-0039

**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

Adam Shee

Signature of Chair

Date (Year/Month/Day)

2023/February/24

Print Name

Wes Nelson

Signature of Member

Date (Year/Month/Day)

Print Name

Signature of Member

Date (Year/Month/Day)