

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 December 7, 2022 (the “**Reconsideration Decision**”), in which the Ministry determined that the Appellant was not eligible for coverage of a restoration (fee code 23114) on tooth #12 or coverage more than \$57.19 for the restoration (fee code 23111) on tooth #21 that were completed on October 27, 2022.

Part D – Relevant Legislation

- *Employment and Assistance Regulation* (the “**Regulation**”) – sections 59, 68, 70, and 76
- Schedule C of the *Regulation* (“**Schedule C**”) – sections 1, 4, and 5
- Schedule of Fee Allowances – Dentist (the “**Fee Schedule**”)

Note: The full text is available after the Decision.

Part E – Summary of Facts

(a) The Reconsideration Decision

The evidence before the Ministry at the Reconsideration Decision consisted of:

- The Appellant is a recipient of income assistance and has been designated as a “Person with Persistent Multiple Barriers” (“**PPMB**”).
- Pursuant to section 34 of the *Employment and Assistance Act*, the Ministry delegated its power and duties as set out in the legislation to Pacific Blue Cross (“**PBC**”) for determining whether any coverage for specific dental services applies to the Appellant based on information found in the Fee Schedule and, if he does, the amount of coverage available to him.
- On January 6, 2021, PBC provided the Appellant with coverage for:
 - a restoration (fee code 23114) on tooth #12 in the amount of \$141.99; and
 - a restoration (fee code 23113) on tooth #21 in the amount of \$114.46.
- On July 30, 2021 PBC provided the Appellant with coverage for a further restoration (fee code 23113) on tooth #12 in the amount of \$29.66.
- On October 27, 2022, the Appellant requested coverage for the following services as it related to teeth #12 and #21:

	Tooth No.	Fee Code	Description	Dentist Fees	Amount Approved by PBC
1	12	23114	Restorations, Permanent Anterior, Bonded Four Surfaces	\$141.99	\$0.00
2	21	23111	Restoration, Permanent Anterior, Bonded, One Surface	\$75.46	\$57.19

- PBC rendered its decision (the “**PBC Decision**”). In doing so, PBC denied coverage for restorations of tooth #12 as the Appellant already received \$171.65 which was the maximum he could receive within a two-year period. Further, PBC provided the Appellant with \$57.19 of coverage for restorations of tooth #21 which caused him to reach the maximum amount of coverage available to him within a two-year period for tooth #21.
- On November 24, 2022, the Appellant submitted a request for reconsideration of the PBC Decision. The Appellant explained that he had had dental work completed on tooth #12 on January 6, 2021 and July 30, 2021 and PBC believed the Appellant’s dentist was billing twice for the same work.
- On December 7, 2022, the Ministry reconsidered the PBC Decision and, upon reviewing the Appellant’s claims history, determined that he received:

- \$141.99 of coverage for restorations (fee code 23114) on tooth #12 on January 6, 2021;
 - \$114.46 of coverage for restorations (fee code 23113) on tooth #21 on January 6, 2021; and
 - \$29.66 of coverage for restorations (fee code 23113) on tooth #12 on July 30, 2021.
- The Ministry issued the Reconsideration Decision and decided that, as it related to the Appellant's October 27, 2022 dental expenses, the Appellant was not eligible for coverage of restorations (fee code 23114) on tooth #12 or coverage of more than \$57.19 for restorations (fee code 23111) on tooth #21 as a "*Basic Dental Service*" or "*Emergency Dental Service*" as provide for by the *Regulation*. This was because the Appellant had previously received \$171.65 of coverage for tooth #12 on January 6, and July 30, 2021 which, at the material time, was less than two years ago. As it related to tooth #21, the Ministry explained that it was not permitted to provide coverage of more than \$57.19 as the Appellant had already received \$114.46 of coverage for restorations on January 6, 2021, which, again, was less than two years ago.
 - The Ministry also decided that the Appellant was not eligible for coverage of dental services as a "*life-threatening health need*" as section 76 of the *Regulation* only applied to medical transportation, medical equipment / devices, and some types of medical supplies. In addition, the Ministry decided that the Appellant was not eligible to receive a crisis supplement given the limitations arising from section 59(3) of the *Regulation*.

(b) The Appeal

On December 20, 2022, the Appellant filed a Notice of Appeal (the "**Appeal Notice**"). In the Appeal Notice, the Appellant did not provide any explanation for why he disagreed with the Reconsideration Decision.

The Appellant's Appeal hearing was held on May 25, 2023 via videoconference.

The Ministry did not attend the hearing. The Panel confirmed that the Ministry had received a Notice of Hearing at least two business days before the hearing was to commence, as required under section 85(2) of the *Regulation*, and the hearing proceeded in the absence of the Ministry.

(c) Oral Submissions

At the Appeal, the Appellant did not dispute that PBC provided him with coverage as follows:

- \$141.99 of coverage for restorations (fee code 23114) on tooth #12 on January 6, 2021;
- \$114.46 of coverage for a restorations (fee code 23113) on tooth #21 on

January 6, 2021; and

- \$29.66 of coverage for restorations (fee code 23113) on tooth #12 on July 30, 2021.

Rather, the Appellant took issue with PBC's responsiveness to his circumstances which he felt deprived him of being able to speak with anyone and that resulted in a denial of the requested dental coverage.

When asked if he could direct the Panel to a provision of the *Regulation* that would provide for additional dental coverage, the Appellant was unable to.

The Panel determined that the Appellant's submissions were admissible as additional evidence pursuant to section 22(4) of the *Employment and Assistance Act* as it was 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 the reasonableness of the Reconsideration Decision in which the Ministry determined that the Appellant was not eligible for coverage of dental fees in excess of the rates set out in the Fee Schedule and the two-year limit under the *Regulation*.

Appellant's Position

The Appellant argues that he should be eligible for additional funding above the *Regulation's* monetary limits.

Ministry's Position

The Ministry did not attend the hearing. In the Reconsideration Decision, the Ministry maintains that the Appellant is not eligible for coverage of restorations (fee code 23114) on tooth #12 or coverage more than \$57.19 for restorations (fee code 23111) on tooth #21 that were completed on October 27, 2022.

Panel Decision

Section 68 of the *Regulation* permits the Ministry to provide a dental supplement as set out in section 4 of Schedule C to a family unit in receipt of income assistance if the family includes a person with a PPMB designation.

Section 70 of the *Regulation* permits the Ministry to provide an emergency dental supplement as set out in section 5 of Schedule C to a family unit in receipt of income assistance.

The Fee Schedule indicates that the maximum amount of coverage that an individual can receive for tooth coloured restorations of five surfaces is \$171.65 (fee code 23115) per tooth in a two year period.

Section 76 of the *Regulation* permits the Ministry to provide any health supplement as set out in sections 2(1)(a) and (f) and 3 of Schedule C to a family unit in receipt of income assistance 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 the *Regulation* and, if amongst other things, and the Minister is satisfied that the person faces a direct and imminent life threatening need.

Section 59 of the *Regulation* permits the Ministry to provide a crisis supplement to or for a family unit that is eligible for income assistance.

(a) Section 68 Eligibility

It is undisputed that the Appellant is in receipt of income assistance and designated as a PPMB; as a result, the Appellant could receive a dental supplement as provided for by section 68 of the *Regulation*.

On review of section 4 of Schedule C, the Panel notes that, in the case of the Appellant, health supplements that may be paid for under section 68 of the *Regulation* are basic dental services to a maximum of \$1,000.00. However, section 1 of Schedule C clarifies that a "basic dental service" is defined as dental services set out in the Fee Schedule. On review of the Fee Schedule, the maximum fee allowance for tooth coloured restorations of five surfaces (fee code 23115) of an individual tooth is \$171.56 within a two-year period.

Given the circumstances, the Panel finds that the Ministry has no discretion to provide the Appellant with funding for basic dental services above the amount provided for by the *Regulation* and as set out in the Fee Schedule.

As a result, the Panel finds that the Ministry's decision to deny the Appellant coverage of restorations (fee code 23114) on tooth #12 or coverage more than \$57.19 for restorations (fee code 23111) on tooth #21 that were completed on October 27, 2022 was a reasonable application of section 68 of the *Regulation*.

(b) Section 70 Eligibility

It is undisputed that the Appellant is in receipt of income assistance; as a result, the Appellant could receive an emergency dental supplement as provided for by section 70 of the *Regulation*.

The Panel notes that section 1 of Schedule C defines an emergency dental supplement as a dental service necessary for the immediate relief of pain that, if provided by a dentist (i) is set out in the Schedule of Fee Allowances — Emergency Dental — Dentist, that is effective September 1, 2017 (updated on February 18, 2020) 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.

On review of the noted Fee Schedule, the Panel notes that fee codes used for basic dental services and emergency dental supplements relating to tooth coloured restorations are identical. As a result, the maximum amount of coverage an individual can receive for a tooth coloured restoration of five surfaces (fee code 23115) for an individual tooth is \$171.56 within a two-year period. Put differently, the Fee Schedule does not differentiate between whether a tooth coloured restoration is provided as a basic dental service or an emergency dental supplement.

As a result of the foregoing, the Panel finds that the Ministry's decision to deny the Appellant an emergency dental supplement was a reasonable application of section 70 of the *Regulation*.

(c) Section 76 Eligibility

It is undisputed that the Appellant is in receipt of income assistance; as a result, the Appellant could receive a health supplement as provided for by section 76 of the

Regulation.

The Panel notes that there is no evidence that the Applicant's condition gave rise to a direct and imminent threat to his life as required by the legislation. However, even if the Appellant faced a direct and imminent threat to his life, the Panel notes that section 76 only allows for supplements provided in sections 2(1)(a) and (f), and section 3 of Schedule C. The Panel notes that neither section 2(1)(a) and (f) nor section 3 of Schedule C provide for the type of dental services requested by the Appellant.

As a result, the Panel finds that the Ministry's decision to deny the Appellant's request was a reasonable application of section 76 of the *Regulation*.

(d) Section 59 Eligibility

It is undisputed that the Appellant is in receipt of income assistance; as a result, the Appellant could receive a crisis supplement as provided for by section 59 of the *Regulation*.

The Panel notes that section 59(3) of the *Regulation* states that 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. Generally speaking, the crisis supplements referred to in section 59 of the *Regulation* pertain to food, shelter (including utilities), and clothing.

As section 59 does not provide for dental services, which are Schedule C supplements, the Panel finds that the Ministry's decision to deny the Appellant's dental funding request was a reasonable application of section 59 of the *Regulation*.

Conclusion

The Panel finds that the Ministry's decision to deny the Appellant's request for a complete dental treatment funding pursuant to sections 59, 68, 70, and 76 of the *Regulation* was a reasonable application of the legislation in the circumstance.

The Appellant is not successful on appeal.

Legislation***Employment and Assistance Regulation, BC Reg 263/2002*****Crisis supplement**

- 59** (1)The minister may provide a crisis supplement to or for a family unit that is eligible for income 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

- 68** 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 income assistance, if
 - (i)the family unit includes a person with persistent multiple barriers to employment, or
 - (ii)the health supplement is provided to or for a person in the family unit who is under 19 years of age,
 - (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
 - (i)is a continued person, and
 - (ii)meets any of the following criteria:
 - (A)the person is under 19 years of age;
 - (B)the person was, on the person's continuation date, a person with persistent multiple barriers to employment or

part of a family unit that then included a person with persistent multiple barriers to employment.

[en. B.C. Reg. 145/2015, Sch. 1, [s. 9](#); am. B.C. Reg. 161/2017, App. 1, [s. 2](#).]

...

Emergency dental and denture supplements

70 The minister may provide any health supplement set out in [section 6](#) [*emergency dental supplements*] of Schedule C to or for

- (a) a family unit in receipt of income 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.

[en. B.C. Reg. 145/2015, Sch. 1, [s. 9](#).]

...

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

76 (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.

[en. B.C. Reg. 61/2010, s. 1; am. B.C. Regs. 197/2012, Sch. 1, [s. 19](#); 145/2015, Sch. 1, [s. 13](#); 180/2019, App. 4, [s. 3](#).]

...

Schedule C

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,

...

"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

...

Dental supplements

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

(a) in respect of a person under 19 years of age, including a child in a home of a relative, 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 68](#) [*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).

...

Emergency dental supplements

6 The health supplements that may be paid for under [section 70](#) [emergency dental and denture supplements] of this regulation are emergency dental services.

MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION

Schedule of Fee Allowances – Emergency Dental – Dentist Effective September 1, 2017

TOOTH COLOURED RESTORATIONS

Note: Maximum fee allowance is five surfaces or the dollar equivalent per tooth in a two-year period. Tooth numbers are required. When billing for restorations, the total number of surfaces restored in that sitting on that tooth should be billed cumulatively. Where two different filling materials are used, these restorations may be billed separately.

Tooth Coloured – Permanent teeth

Bonded - Anterior

23111	One surface	75.47	90.52
23112	Two surfaces	90.56	109.07
23113	Three surfaces	114.46	137.27
23114	Four surfaces	141.99	171.40
23115	Five surfaces (maximum)	171.65	202.57

...

MINISTRY OF SOCIAL DEVELOPMENT AND POVERTY REDUCTION

Schedule of Fee Allowances – Dentist Effective September 1, 2017

TOOTH COLOURED RESTORATIONS

Note: Maximum fee allowance is five surfaces or the dollar equivalent per tooth in a two-year period. Tooth numbers are required. When billing for restorations, the total number of surfaces restored in that sitting on that tooth should be billed cumulatively. Where two different filling materials are used, these restorations may be billed separately.

Tooth Coloured – Permanent teeth

Bonded - Anterior

23111	One surface	75.47	90.52
23112	Two surfaces	90.56	109.07
23113	Three surfaces	114.46	137.27
23114	Four surfaces	141.99	171.40
23115	Five surfaces (maximum)	171.65	202.57

APPEAL NUMBER 2022-0318

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
Anil Aggarwal

Signature of Chair

Date (Year/Month/Day)
2023/05/25

Print Name
Effie Simpson

Signature of Member

Date (Year/Month/Day)
2023/05/25

Print Name
David Handelman

Signature of Member

Date (Year
2023/05/25