

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated May 29, 2023, which determined the appellant was not eligible for coverage of dental treatments above the maximum ministry rates (for dental treatments received between March 7, 2023 and May 11, 2023).

Part D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Act (Act) section 25

Employment and Assistance for Persons with Disabilities Regulation (Regulation), sections 57, 62, 64 and 69, and Schedule C, sections 1, 4, and 5

Schedule of Fee Allowances – Dentist (fee schedule)

Relevant sections of the legislation can be found in the Schedule of Legislation at the end of this decision.

Part E – Summary of Facts

At the beginning of the hearing, the appellant advised that he would leave the hearing after his presentation and any questions. He added that he is very familiar with the appeal process and also understands the ministry's position. After the appellant left, the hearing proceeded as per section 86(b) of the Employment and Assistance Regulation.

Relevant Evidence Before the Minister at Reconsideration**Ministry Records show:**

- On March 7, 2023 the appellant advised the ministry he needed to have a double transplant (heart and lung) and would need to have all his dental work done first.
- He stated that he went to the dentist for a cleaning and checkup, and the outstanding bill was \$266.00. He explained that he will also need to have two teeth removed and six fillings. The cost would be approximately \$1,800.00 to \$2,200.00. The dental office told him he had maxed out his dental benefits.
- The appellant explained that his oral health needs to be in perfect condition, as post-surgery mouth infections can be common, so there cannot be any dental concerns before his surgery. The ministry advised the appellant to send in verification of his outstanding bill and the upcoming needed dental work.
- On March 8, 2023 the appellant submitted two Predetermination Explanation of Benefits documents and an Explanation of Benefits document (all dated March 7, 2023), which outlined an assessment of dental services to be provided.
- On March 10, 2023 the ministry reviewed the documents, as well as the appellant's claims history with Pacific Blue Cross (PBC) and determined the appellant had received the maximum amount that can be provided for these treatments under the fee schedule.

Explanation of Benefits (Claim submitted to PBC by Dentist) – Patient's Copy

- submitted March 7, 2023

Total payable to provider - \$206.08

Not covered by this insurance policy: \$266.82

Predetermination Explanation of Benefits (submitted to PBC by Dentist) - March 7, 2023

Total provider charge \$556.00

Total payable to insured/provider \$266.69

Not covered - \$289.31

Predetermination Explanation of Benefits (submitted to PBC by Dentist) - March 7, 2023

Total provider charge \$1,214.00

Total payable to insured/provider \$576.16
 Not covered - \$637.84

Request for Reconsideration - May 12, 2023 - summary

The appellant states this dental work is required for him to be placed on the list for a heart and lung transplant. He added that before going to the dentist he phoned the ministry and was informed that he had to present his care card and would be funded 100%.

Now he finds the insurance only covers a small part of the total bill, leaving him with an outstanding balance of \$1,743.10. The appellant adds that if he doesn't get the required work he will not be listed for transplant and without the transplant he will die.

The appellant included a copy of Part C – Preamble – Emergency Dental Supplements – Dentist, and highlighted the following:

“Emergency Dental Supplements. Emergency Dental allows for treatment of an eligible person who needs immediate attention to relieve pain, or to control infection or bleeding or if a person’s health or welfare is otherwise immediately jeopardized.”

Invoice from Dental Clinic - May 11, 2023

Amount Due \$1,743.10

Letter to Whom It May Concern from a Pre-Transplant Assessment Clinic - May 11, 2023

The letter states the appellant is in the process of being assessed for a lung transplant at the pre-transplant assessment clinic.

A requirement of the lung transplant program is that transplant candidates undergo a dental examination and have necessary outstanding dental work completed prior to the transplant. This step must be completed for the appellant to be considered for activation; It would be a barrier to the appellant’s completion of the transplant assessment if the appellant is unable to undergo this step and he would be unable to proceed.

Appellant Claims History with Pacific Blue Cross – provided by the Ministry

	Tooth no.	Fee Code	Description	Dentist Fees	PBC Approved Amount

Date: March 7, 2023					
1	n/a	01103	Examination and diagnosis, complete, permanent dentition	\$125.00	\$58.74
2	n/a	02144	Radiographs, bitewing, four images	\$45.40	\$21.04
3	n/a	02112	Radiographs, periapical, two images	\$29.30	\$13.59
4	n/a	12111	Fluoride treatment rinse	\$13.40	\$0.00
5	n/a	11101	Polishing, one unit of time	\$44.60	\$24.03
6	n/a	11114	Scaling, four units	\$215.20	\$88.68
Date: March 14, 2023					
7	15	23312	Permanent bicuspid, bonded, two surfaces	\$255.00	\$122.65
8	16	23322	Permanent molars, bonded, two surfaces	\$301.00	\$144.04
Date: March 21, 2023					
9	26	23322	Permanent molars, bonded, two surfaces	\$301.00	\$144.04
10	25	23313	Permanent bicuspid, bonded, three surfaces	\$311.00	\$144.04
Date: March 28, 2023					
11	37	23322	Permanent molars, bonded two surfaces	\$301.00	\$95.11
12	36	23322	Permanent molars, bonded two surfaces	\$301.00	\$144.04
Date: April 11, 2023					
13	n/a	11111	Scaling one unit of time	\$53.80	\$0.00
14	n/a	43423	Root planing, three units	\$161.40	\$0.00
Date: May 11, 2023					
15	12	71201	Odontectomy, extraction erupted tooth, surgical approach	\$285.00	\$0.00
TOTAL:				\$2,743.10	\$1,000

Ministry note:

- The \$1,000 limit for basic dental services that can be provided for the current 2-year period (January 1, 2023 to December 31, 2024) under the fee schedule was reached midway through the dental work on March 28, 2023, and therefore some items were not covered under basic dental services.
- Item #11 listed above (fee code 23322) was covered for \$95.11 of the \$144.04 maximum that can be provided for this item, as this was the last item paid under basic dental services. This partial amount maximized the remainder of the appellant's \$1,000.00 limit.

Letter to the Appellant's Dentist from the Ministry - May 29, 2023 - summary

The ministry advised the dentist it approved coverage for select dental treatments as emergency dental services, as shown below.

Tooth no.	Fee Code	Description	Dentist Fees	Ministry Coverage
Date: March 28, 2023				

1	37	23322	Permanent molars, bonded two surfaces	\$301.00	\$48.93
Date: April 11, 2023					
2	n/a	11111	Scaling one unit of time	\$53.80	\$22.17
Date: May 11, 2023					
3	12	71201	Odontectomy, extraction erupted tooth, surgical approach	\$285.00	\$130.27
TOTAL:				\$639.80	\$201.37

Note:

"...Although the maximum ministry rate for fee code 23322 is \$144.04, item #1 (tooth 37) is approved for coverage of \$48.93. This item was previously covered at \$95.11, which was the remaining amount of the \$1,000.00 limit for basic dental services at that time. The maximum ministry rate has now been provided for this treatment (\$48.93 + \$95.11 = \$144.04)."

Additional Information

Appellant

Notice of Appeal - July 13, 2023 - summary

The appellant states he was misinformed by the ministry. He contacted the ministry and was told he was covered 100% for dental care. The appellant adds that this is required dental work, to enter into a heart and lung transplant, which should be covered for life-saving work. If he doesn't get the transplant, he states he won't survive.

At the hearing, the appellant stated he finds the ministry very sympathetic to his case. However, he emphasized that the ministry misinformed him about his eligibility and added that the rates in the fee schedule are out of date. And, although he understands the rules, he thinks there should be an exception made. His surgery has to be done in another province (with expenses paid), as this life-saving surgery is not performed in British Columbia.

As well, the appellant stated his dentist advised him he would do the treatment needed and work out the payment later. The appellant stated that after paying his bills, he is left with approximately \$12.00/day for food – he is sick and dying and can't eat.

Ministry

At the hearing, the ministry stated that the fee allowances have not kept up with what dentists are charging now. However, the ministry is constrained.

The Ministry did not dispute the appellant's assertion that he was given incorrect information and added that it recently conducted training with its staff to be more specific about what can be covered for dental treatment.

Also, the ministry stated that there are community organizations that may be able to assist the appellant.

Admissibility

The panel determined the additional information is reasonably required for a full and fair disclosure of all matters related to the decision under appeal and therefore is admissible under section 22(4) of the *Employment and Assistance Act*.

The issue on appeal is whether the ministry's reconsideration decision was reasonably supported by the evidence or was a reasonable application of the legislation in the circumstances of the appellant.

Specifically, did the ministry reasonably determine the appellant was not eligible for coverage of dental treatments above the maximum ministry rates (for dental treatments received between March 7, 2023 and May 11, 2023)?

Appellant Position

The appellant argues that before going to the dentist he phoned the ministry and was informed that he would be funded 100%. Now he finds the insurance only covers a small part of the total bill, leaving him with an outstanding balance of \$1,743.10.

The appellant also argues that the allowable rates for dental coverage are not current.

In addition, the appellant argues that if he doesn't get the required dental work he will not be listed for a transplant and without a transplant he will die. He argues that he understands the rules but believes there should be an exception made for this life-saving treatment.

Ministry Position

Assignment to Pacific Blue Cross

The ministry states under the Act it may authorize any category of persons to take on any or all of the minister's powers, duties or functions. In the case of dental supplements, the minister's powers, duties or functions are assigned to Pacific Blue Cross.

Basic Eligibility

The ministry states, as the appellant is a recipient of disability assistance, he may be eligible for coverage of basic dental services and emergency dental services.

Eligibility for Coverage of Services in Excess of the \$1000.00 Limit for Basic Dental Services

The ministry argues the appellant is not eligible for coverage of dental treatments provided between March 7, 2023 and May 11, 2023 in excess of the \$1,000.00 limit for basic dental services for the current two-year period (January 1, 2023 to December 31, 2024). The appellant's PBC claims history indicates the ministry has provided coverage totalling \$1,000.00 for basic dental services for the current two-year period (ending December 31, 2024).

However, the ministry also stated that the two-year \$1,000 limit for basic dental services may be exceeded if the need for emergency dental services is identified and the requested services are listed in the emergency dental section of the fee schedule.

Coverage of dental treatments as Emergency Dental Services

The ministry stated it is satisfied that the dental treatments the appellant received between March 7, 2023 and May 11, 2023 were performed as a requirement to be placed on a waitlist for a heart and lung transplant, and that failure to be placed on this waitlist would place his health in immediate jeopardy.

The ministry found that the appellant was eligible for coverage of three items as emergency dental services on March 28, April 11 and May 11, 2023 (fee codes, 2332, 1111 and 71201).

However, the ministry found that the remaining costs are either not covered under the fee schedule (emergency dental section) or were paid the maximum as basic dental services under the fee schedule, and therefore no coverage can be provided for these items as emergency dental services.

Eligibility for Coverage of Fluoride Treatment

The ministry argues it is only authorized to provide coverage for dental services set out in the fee schedule and item #4 in the claims history table (fluoride treatment) is not included in the fee schedule. Therefore, the ministry determined the appellant is not eligible for coverage of fluoride treatment. As well, coverage for fluoride is limited to children under 19 years of age.

Eligibility for Coverage as a Life-Threatening Health Need

The ministry argues the appellant is not eligible for coverage of dental services provided between March 7, 2023 and May 11, 2023 as a life-threatening health need.

Although section 69 of the Regulation states the ministry may provide medical assistance for a person who is otherwise not eligible for the health supplement, if the person faces a direct and imminent life-threatening need, unfortunately, dental supplements are not included in this section.

Eligibility for Coverage as a Crisis Supplement

Section 57(3) of the Regulation states 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. The minister notes dental treatments are health care services as described in

Schedule C. As a result, it determined the appellant is not eligible to receive a crisis supplement to cover dental fees.

The ministry added that the appellant's dentist has charged fees in excess of the rates set out in the ministry's fee schedule. As the ministry is not authorized to provide coverage for fees in

excess of the rates set out in the fee schedule, the appellant will be responsible for paying the difference.

Panel Analysis

Section 25, Act- delegation of minister's powers

Section 25 of the Act states, subject to the Regulation, the minister may delegate any or all of the minister's powers, duties or functions under this Act. The panel finds the ministry reasonably determined it could delegate its responsibilities regarding coverage of dental services to Pacific Blue Cross.

Section 57 (Regulation) - crisis supplement

Section 57(1)(a) of the Regulation states the minister may provide a crisis supplement for a family unit that is eligible for disability assistance if the minister considers that failure to meet the expense will result in imminent danger to the physical health of any person in the family unit (subsection (b)(i).

The panel notes ministry records show the appellant is a recipient of disability assistance. The panel also notes the appellant has provided a letter from a Pre-Transplant Assessment Clinic that demonstrate the need for him to have outstanding dental work completed prior to a heart and lung transplant. The panel finds this demonstrates that failure to meet this expense would result in imminent danger to his physical health.

However, section 57(3) states, a crisis supplement may not be provided for the purpose of obtaining a supplement described in Schedule C or any other health care goods or services.

The panel acknowledges the importance of the dental work needed, but as the appellant is requesting a supplement which is included in Schedule C, the panel finds the ministry reasonably determined that the appellant was not eligible for coverage of dental work as a crisis supplement under section 57(3) of the Regulation.

Sections 63 and 64 (Regulation) – dental and emergency dental supplements

Sections 63 and 64 of the regulation state the minister may provide dental and emergency dental supplements (in Schedule C) for a recipient of disability assistance.

The panel notes Schedule C defines "basic dental service" as a dental service, that if provided by a dentist, is set out in the Schedule of Fee Allowances — Dentist and is provided at the rate set out in that schedule for the service and the category of the person receiving the service. And, "dentist" means a dentist registered with the British Columbia College of Oral Health Professionals.

The panel notes the "PBC approved amount" shown in the "Claims History with PBC" chart, (for basic dental coverage), and the "ministry coverage" rates shown in the letter from the ministry to the dentist (for emergency dental services), match the allowable amounts, for each group in the fee schedule. As well, the panel notes the services are being provided by a dentist.

basic dental services

The ministry argues that although, the appellant is a recipient of disability assistance, he is not eligible for coverage of basic dental treatments provided between March 7, 2023 and May 11, 2023 in excess of the \$1,000.00 limit for the current two-year period (January 1, 2023 to December 31, 2024). The appellant argues that before going to the dentist he phoned the ministry and was informed that he would be funded 100%.

Although the panel acknowledges there may have been some miscommunication between the appellant and the ministry, it notes, Schedule C, section 4 of the Regulation states the health supplements that may be paid under section 63 [*dental supplements*] of this Regulation are basic dental services to a maximum of \$1,000.00 each period, if provided to a person over 19 during a two year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year.

Therefore, the panel finds the ministry reasonably determined the appellant was not eligible for the cost of dental treatments in 2023 in excess of \$1,000.00, as per section 63 of the Regulation, Schedule C, section 4(1)(b).

As well, the ministry argues the appellant is not eligible for coverage of fluoride treatment as fluoride treatment is not set out in the fee schedule and also coverage for fluoride is limited to children under 19 years of age. The panel notes the only coverage for the application of fluoride found in the fee schedule is limited to children under 19 years of age and therefore finds the ministry reasonably determined the appellant was not eligible for coverage of fluoride treatment.

emergency dental service

Schedule C of the Regulation defines "emergency dental service" as a dental service necessary for the immediate relief of pain that, if provided by a dentist, is set out in the fee schedule.

The panel notes the ministry found that the appellant was eligible for coverage of three items as emergency dental services – treatment on March 28, April 11 and May 11, 2023 (fee codes, 2332, 1111 and 71201). However, the ministry found that the remaining items are either not

covered under the fee schedule (emergency dental section) or were paid the maximum as basic dental services under the fee schedule.

The panel notes, root planing (fee code 43423) is not included in the fee schedule for emergency dental services and therefore finds the ministry reasonably determined that the appellant is not eligible for coverage of this dental treatment.

Although the appellant argued that the rates in the fee schedule are out of date, this matter is not with the panel's area of jurisdiction in this appeal.

Section 69 (Regulation) – health supplement for persons facing direct and imminent life-threatening health need

Section 69 of the Regulation states the minister may provide 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 for a person who is otherwise not eligible for the health supplement under this Regulation, and if the minister is satisfied that the person faces a direct and imminent life threatening need and the health supplement is necessary to meet that need.

The panel notes that section 2(1)(a) pertains to medical or surgical supplies, section (f) pertains to transportation and section 3 pertains to medical equipment and devices. Dental services are not included in this section. Therefore, the panel finds the ministry reasonably determined that the appellant was not eligible for coverage under section 69 of the Regulation.

The panel sympathizes with the appellant's difficult situation and acknowledges the appellant's request for an exception to be made. However, the panel is bound by the legislation, as is the ministry.

Conclusion

In conclusion, the panel finds the ministry decision that determined the appellant is not eligible for coverage of dental treatments above the maximum ministry rates (for dental treatments received between March 7, 2023 and May 11, 2023) was a reasonable application of the legislation in the circumstances of the appellant.

The appellant is not successful on appeal.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Act

Delegation of minister's powers and duties

25 (1) Subject to the regulations, the minister may delegate to any person or category of persons any or all of the minister's powers, duties or functions under this Act...

Employment and Assistance for Persons with Disabilities Regulation

Crisis supplement

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

(a) the family unit or a person in the family unit requires the supplement to meet an unexpected expense or obtain an item unexpectedly needed and is unable to meet the expense or obtain the item because there are no resources available to the family unit, and

(b) the minister considers that failure to meet the expense or obtain the item will result in (i) imminent danger to the physical health of any person in the family unit...

(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....

General health supplements

62 The minister may provide any health supplement set out in section 2 [*general health supplements*] or 3 [*medical equipment and devices*] of Schedule C to or for

(a) a family unit in receipt of disability assistance...

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...

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...

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...

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...

"dentist" means a dentist registered with the British Columbia College of Oral Health Professionals...

"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

(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...

(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...

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.

Dental Supplement – Dentist

[Dentist Fee Schedule \(gov.bc.ca\)](http://gov.bc.ca)

Part A - Preamble - Dental Supplements - Dentist pages i - vii The Preamble - Dental Supplements - Dentist provides details on the Ministry's Dental Supplements and information on how to confirm eligibility and obtain payment for services rendered.

Part B - Schedule of Fee Allowances – Dentist

The Schedule of Fee Allowances - Dentist lists the eligible services and fees associated with the Ministry's Dental Supplements and the provision of basic dental services. It contains the rules, frequency and financial limits associated with each service.

Diagnostic

Preventative

Restorative

Endodontics

Periodontics

Prosthodontics – Removable

Oral Surgery

Miscellaneous

Part C - Preamble - Emergency Dental Supplements - Dentist pages - Emergency Dental Supplements

...details on the Ministry's Emergency Dental Supplements and information on how to confirm eligibility and obtain payment for services rendered.

Part D - Schedule of Fee Allowances - Emergency Dental - Dentist

...lists the eligible services and fees associated with the Ministry's Emergency Dental Supplements. It contains the rules, frequency and financial limits associated with each service.

APPEAL NUMBER 2023-0196

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

Connie Simonsen

Signature of Chair

Date (Year/Month/Day)

2023/08/04

Print Name

Richard Franklin

Signature of Member

Date (Year/Month/Day)

2023/08/04

Print Name

Mary Kline

Signature of Member

Date (Year/Month/Day)

2023/08/04