

### **Part C – Decision Under Appeal**

The decision under appeal is the Ministry of Social Development and Poverty Reduction (ministry) reconsideration decision dated April 26, 2024, which determined the appellant is not eligible for replacement dentures nor coverage of a soft lining for a new denture as he did not meet the requirements in the Employment and Assistance for Persons with Disabilities Regulation.

### **Part D – Relevant Legislation**

Employment and Assistance for Persons with Disabilities Regulation (Regulation), sections 57, 63 and 69, Schedule C, sections 1, 4, and 5

Schedule of Fee Allowances – Denturist (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**

**Relevant Evidence Before the Minister at Reconsideration**

**Ministry Records show:**

On January 22, 2024 the appellant submitted a dental claim form and a pre-determination letter from Pacific Blue Cross.

**Dental Claim Form completed by a Denturist (December 13, 2023)**

*- requesting the following services*

Fee Code	Description	Dentist Fees
73008	Soft lining, new denture	\$304.00
31310	Complete maxillary denture (upper)	\$781.25
31320	Complete mandibular denture (lower)	\$781.25
	<b>Total</b>	\$1,866.50

**Note:**

The patient is in pain and needs relief. The dentures were lost when the patient was giving CPR to his friend and an emergency car ran over his dentures. The patient needs removable dentures with a soft liner in order to be able to chew and acquire nutritional dietary value.

**Pre-determination letter from Pacific Blue Cross to the Appellant’s Denturist (January 15, 2024)**

Claim ID	Submitted		Eligible amount	Deductible amount	% Covered	Plan approved		
	procedure	amount				procedure	amount	msg code
Patient - appellant	31310	\$781.25						
	31320	\$781.25	0.00	0.00	0%	31310	0.00	C4905
	73008	\$304.00	0.00	0.00	0%	31320	0.00	C4905
		\$1,866.50	0.00	0.00	0%	73008	0.00	C4801

C4905 – “we considered this expense up to the benefit maximum allowed under your plan”

**Screen Shot of Pacific Blue Cross Pre-Determination (January 15, 2024)**

Health	Dental						
ID	Procedure	Tooth	Status	Treatment plan	Amount submitted	Amount approved	Approval date
	31310 - dentures, maxillary		reject	no	\$781.25	\$0.00	Jan 15, 2024
	31320 - dentures, mandibular		reject	no	\$781.25	\$0.00	Jan 15, 2024
	73008 - soft lining, new denture		reject	no	\$304.00	\$0.00	Jan 15, 2024
Original dentures July 2015 & Oct 2020							
Oct 14, 2020		dentures, mandibular			\$581.25	\$581.25	Oct 26, 2020
July 15, 2019		dentures, maxillary			\$816.00	\$757.50	July 26, 2019
June 17, 2023 - denture exception							
June 17, 2023		dentures, mandibular			\$581.25	\$581.25	Aug 17, 2023
June 17, 2023		Soft lining, new denture			\$404.00	\$104.00	Aug 17, 2023
June 17, 2023		dentures, maxillary			\$581.25	\$581.25	Aug 17, 2023

**Ministry Policy (effective January 2020)**

Partial dentures in excess of the basic dental financial limit

The policy states that if the recipient has been in receipt of disability assistance for at least two years, Pacific Blue Cross may authorize a one-time only exemption to the once every five-year replacement policy if the following criteria have been met:

- The client is eligible for replacement dentures;
- The dentures being replaced were lost or damaged beyond repair and the loss or damage was beyond the control of the client; and
- Failure to provide replacement dentures would result in compromised health.

**Request for Reconsideration - summary**

The appellant states he was in a motor vehicle accident where a friend was hit by a bus. He wanted to assist with CPR and did not want his teeth in during CPR so removed them and placed them at his side. Although he did not perform CPR, because his friend was too badly injured, when he went to retrieve his teeth they were not there. He was told they were run over and smashed into pieces.

The appellant is asking that his situation be assessed given the circumstances of how he lost his teeth (trying to help a friend). He states he loved his new teeth as they were the first set that actually fit and would not easily fall out or hurt his gums. With no teeth now, he finds eating a chore and has had two choking incidents, including one where his brother spent five minutes doing the Heimlich maneuver.

The appellant states it's an extremely serious safety issue. He has lost 50 lbs. since the accident. He is becoming afraid to eat and the food he does eat has no real protein. His doctor says his blood work shows he's anemic. He can hardly eat anything except soft foods and feels people discriminate against him because he's so thin. He thinks some are afraid of him as they may think he has a disease.

## **Additional Information**

### Appellant

#### **Notice of Appeal** (April 30, 2024)

The appellant states he was told over the phone that he was denied.

At the hearing, the appellant's advocate stated the appellant's mental and physical health are suffering and added that sometimes rules can be maneuvered around.

### Ministry

At the hearing, the ministry reiterated the information in its record and also clarified that the original dentures were provided in July 2019 and not as incorrectly shown on the Pacific Blue Cross screen shot as July 2015. In addition, the ministry stated it was unsure whether the five-year effective date was considered from 2019 or 2023.

### **Admissibility**

The panel determined the additional information above, from the appellant and ministry 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*.

## **Part F – Reasons for Panel Decision**

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 replacement dentures nor coverage of a soft lining for a new denture as he did not meet the requirements in the Regulation?

### **Appellant Position**

The appellant is asking that his situation be assessed considering the circumstances of how he lost his teeth (trying to help a friend).

The appellant states it's an extremely serious safety issue. He has had two choking incidents and has lost 50 lbs. He adds that that he is becoming afraid to eat and the food he does eat has no real protein (can only eat soft food). His doctor says he's anemic.

### **Ministry Position**

#### *Basic Dental Service*

The ministry states that it may provide coverage for basic dental services as set out in the Regulation, section 63 as the appellant is a recipient of disability assistance. However, the appellant is not eligible for denture coverage, as a basic dental service, as the appellant's dentures are not more than five years old. Therefore, the appellant does not meet the requirement under the Regulation Schedule C, section 4(2)(b).

Also, the ministry states although its policy allows a one-time exception to the five-year requirement, the ministry notes the appellant has already been granted an exception to this requirement, as he received funding for dentures on June 17, 2023.

#### *Eligibility for Coverage of Dentures as an Emergency Dental Service*

The ministry states that "emergency dental service" means a dental service necessary for the immediate relief of pain that, if provided by a dentist, is set out in the Fee Schedule. The ministry states the appellant is not eligible for denture coverage as an emergency dental service as the Fee Schedule does not provide for coverage of dentures in the section for emergency dental services.

*Eligibility for Coverage as a Life-Threatening Health Need*

The ministry states the appellant is not eligible for coverage of dentures as a life-threatening health need as this section of the legislation only applies to medical transportation, medical equipment/devices, and some types of medical supplies. Dental and denture supplements are not included.

*Eligibility for Coverage as a Crisis Supplement*

Section 57(3) of the Regulation states that the ministry may not provide a crisis supplement to obtain a supplement described in Schedule C or for any other health care goods or services. The ministry notes dentures are a health care service and are described in Schedule C. As a result, the appellant is not eligible to receive a crisis supplement to cover his dentures.

*Coverage of a Soft Lining*

The ministry states that the Fee Schedule states coverage for a soft lining will only be considered when done in conjunction with fabrication of new dentures. As the requested dentures have not yet been placed and coverage for these dentures has now been denied, the ministry is unable to assess for coverage of the soft lining.

**Panel Analysis**

Section 57 (Regulation) - crisis supplement

Section 57(1)(a) of the Regulation states the minister may provide a crisis supplement to a family that is eligible for disability assistance if a person in the family requires the supplement to obtain an item unexpectedly and the minister considers that failure to meet the expense or obtain the item will result in imminent danger to the physical health of any person in the family. The panel notes, ministry records state the appellant is a recipient of disability assistance. 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 that the appellant's dentures were unexpectedly destroyed, but as he is requesting a supplement which is included in Schedule C, the panel finds the ministry reasonably determined the appellant was not eligible for coverage of dentures as a crisis supplement under section 57(3) of the Regulation.

Section 63 (Regulation) – general health

Section 63 states the minister may provide any health supplement set out in Schedule C section 4 of the Regulation [*dental supplements*] for a family unit in receipt of disability

assistance. The panel also notes section 4(2)(b) in Schedule C of the Regulation states the health supplements that may be paid under section 63 are basic dental services for dentures that are more than five years old.

The panel notes the Pacific Blue Cross pre-determination information shows the appellant received a full set of dentures in June and July 2023. As this evidence demonstrates that five years have not passed since the appellant received his last set of dentures, the panel finds the ministry reasonably determined the appellant is not eligible for a new set of dentures as per the legislation.

Although, at the hearing, the ministry was unsure whether the five years were effective from 2019 or 2023, the panel finds it has no bearing on this appeal, as the soonest the five-year time period could be effective is July 2024 and the request for dentures was made in January 2024. The timing difference between 2019 or 2023 is therefore immaterial to the decision.

#### Section 64, Regulation, Schedule C, sections 1 and 5 – emergency denture supplement

Section 64 of the Regulation states the minister may provide emergency denture supplements for a recipient of disability assistance. The panel notes section 1, Schedule C defines "basic dental service" as a dental service that, if provided by a dentist, is set out in the Fee Schedule. Section 1 also states "emergency dental service" if provided by a dentist is set out in the Fee Schedule.

The panel notes the Fee Schedule states that each emergency visit is restricted to the procedures and limitations outlined in this Schedule. Services outside this Schedule "(i.e., dentures, processed relines... etc.) will not be covered and any work beyond the immediate relief of pain will not be considered".

As the information in the Fee Schedule states dentures are not covered in the emergency section, the panel finds the ministry reasonably concluded the appellant is not eligible for new dentures under section 64 of the Regulation.

#### 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) of Schedule C pertains to medical or surgical supplies, section (f) pertains to transportation and section 3 pertains to medical equipment and devices. As dental services are not included in this section, the panel finds the ministry reasonably determined that the appellant was not eligible for coverage under section 69 of the Regulation.

#### Soft Liner

The panel notes the Fee Schedule states that soft lining will only be considered when done in conjunction with fabrication of new complete or partial dentures or reline/rebase of complete or partial dentures. As the panel found the ministry reasonably determined the appellant is not eligible for replacement dentures, the panel finds the ministry reasonably determined the ministry cannot authorize payment of a soft liner at this time.

The panel sympathizes with the appellant's difficult situation. 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 replacement dentures, nor for a soft lining, was reasonably supported by the evidence.

The appellant is not successful on appeal.



## Schedule of Legislation

### 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...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...

(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...

#### **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,

b)if provided by a dentist,

(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...

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

(b)if provided by a dentist,

(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...

#### **Dental supplements**

##### **4**

...(1.1)The health supplements that may be paid under section 63 [*dental supplements*] of this regulation are basic dental services to a maximum of

(a)\$2 000 each period, if provided to a person under 19 years of age, and

(b)\$1 000 each period, if provided to a person not referred to in paragraph (a)...

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

(a)who has never worn dentures, or

(b)whose dentures are more than 5 years old.

(3)The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

(a)a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,

(b)a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or

(c)a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependant of that person requires replacement dentures.

(4)Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.

(5)The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under...

(b)fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances — Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule.

(7)A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.

#### **Emergency dental supplements**

**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 – Denturist

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

**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.

**Processed Soft Liner**

Fee item 73008 will only be considered when done in conjunction with fabrication of new complete or partial dentures or reline/rebase of complete or partial dentures.

APPEAL NUMBER 2024-0160

**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)

2024/05/23

Print Name

Edward Wong

Signature of Member

Date (Year/Month/Day)

2024/05/23

Print Name

Bob Fenske

Signature of Member

Date (Year/Month/Day)

2024/05/23