

Reference:

PART C – DECISION UNDER APPEAL

APPEAL #

(State the reconsideration decision)

The decision under appeal is the Ministry's reconsideration decision, dated May 14, 2009 which denied the Appellant funds for dentures beyond those set out in Schedule C, Section 1, of the Employment and Assistance Regulations under the Schedule of Fee Allowances – Denturist.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance for Persons with Disabilities (EAPWD) Regulation,63
Employment and Assistance for Persons with Disabilities (EAPWD) Regulation, Schedule C, Section 1 and 4
Schedule of Fee Allowances-Denturist.

Please set out the facts as determined by the panel, based on the evidence at the hearing. Please note that subsection 22(4) of the Employment and Assistance Act states that, in a hearing referred to in subsection (3), a panel may admit as evidence only:

- (a) the information and records that were before the minister when the decision was being made, and
- (b) oral or written testimony in support of the information and records referred to in paragraph (a).

The evidence before the Ministry was as follows:

On April 21, 2009, the Appellant was denied for full coverage for dentures.

Also on April 21, 2009, the Appellant requested a Reconsideration package for this decision.

On April 30, 2009, the Appellant submitted a Request for Reconsideration to the ministry.

On May 14, 2009, the ministry completed a review of the Appellant's request for Reconsideration.

A letter from the Appellant's Dentist dated, April 29, 2009, stating that "...It is imperative that the Appellant gets a lower denture as soon as possible ...",

April 21, 2009, the ministry received an estimate from the Appellant's Denturist, of \$945.00 for a lower denture. He states this is the set fee allowed on the Provincial Fee Schedule, which differs from the Ministry's Fee Allowances-Denturist.

He goes on to state that the balance is the responsibility of the patient but a monthly payment of \$100.00 through income assistance may be arranged.

The Ministry's reconsideration letter, May 14, 2009, gives the amount allowed for Dental Supplement treatment on Schedule of Fee Allowances-Denturist as \$565.00

Included in the Ministry's information is a detailed three page listing of Dental claims paid for the appellant by Pacific Blue Cross "CARESnet" from April 1, 2007 to May 12, 2009.

In the Appellant's original reasons for Reconsideration, she states the following;

She can't afford to pay the \$380.00 required to get her lower dentures.

Her pension doesn't allow for extras.

She needs dentures to chew her food as big chunks are hard to digest and she frequently chokes.

Her top teeth are chewing up her lower gum and she experiences pain because her jaws don't line up correctly.

The Appellant goes on to state that she hopes the Ministry will agree to pay the extra \$380.00 so she can get her dentures soon.

At the Tribunal Hearing the Appellant submitted a document titled "July, 2009 Budget". This was admitted as evidence EA Act Section 22 (4). The Appellant went over the difficulties lack of dentures is causing her as well as the monetary constraints that make the extra \$380 a hardship for her.

ATTACH EXTRA PAGES IF NECESSARY

(State the reasons for the panel decision)

The issue in this appeal is the reasonableness of the Ministry's decision to deny the Appellant funding beyond those set out in the Schedule for Fee Allowances-Denturist for her dentures. This leaves the Appellant to pay the \$380 difference that is the additional cost of Dentures above and beyond the Scheduled amount.

The Ministry has confirmed that the Appellant is eligible for lower dentures (fee code 31321) under EAPWD Regulations, 63 and Schedule C, Section 4

The EAPWD Regulation 63, Schedule C, Section 1 states the definition of basic dental service

(a) if provided by a dentist,

(i) is set out in the Schedule of Fee Allowances-Dentist that is effective January 1, 2007 and is on file with the office of the deputy minister, and

(ii) is provided at a rate set out for the service in that Schedule, and

(b) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances-Denturist that is effective January 1, 2007 and is on file with the office of the deputy minister, and

(ii) is provided at the rate set out for the service in that schedule: (B.C. Reg. 315/2006)

"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 January 1, 2007 and is on file with the office of the deputy minister, and

(ii) is provided at the rate set out in that Schedule, and

(b) is provided by a denturist,

(i) is set out in Schedule of Fee Allowances-Emergency Dental-Denturist, that is effective January 1, 2007 and is on file with the office of the deputy minister, and

(ii) is provided at the rate set out in that Schedule; (B.C. Reg. 315/2006)

EAPWD Schedule C Section 4 provides that

(1) in this section, "period" means a 2 year period beginning on January 1, 2003, and on each subsequent January 1 in an odd 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

(a) \$700 each calendar year, if provided to a dependant child,

(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 6 previous months to relieve pain,

Reference:

(c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependent of that person requires replacement dentures(B.C.Reg.94/2005)

At the hearing the Appellant's position was that she appreciated the denture being approved and understood that the Denturist charges more than the allowed rate, she went on to outline her budget in order to show that she couldn't pay the extra amount required. She stated that she struggles for money at the end of the month and uses a local food bank to get by. The Appellant submitted a Document, titled "July 2009 Budget". That outlined her budget and it was accepted at the Hearing as elaborating on facts already before the tribunal. The other concerns the Appellant spoke of were embarrassment over her lack of control of drooling and the pain caused by her teeth cutting into the lower gums. The Appellant said the jagged upper teeth were caused by her prescription medicines for other illness. These medicines have rotted her upper teeth leaving jagged stubs in her top gums.

The Ministry position restated the sections of the Regulations-Schedule C 1 (b) that limit the amount they can pay and stated that they cannot exceed this amount as set out in Schedule of Fee Allowances- Denturist.

The Panel considered the Appellant's letter from her Dentist stating "It is imperative that she get a lower denture as soon as possible. She is having difficulty eating properly. Further, her upper dentition is occluding into the lower gums causing multiple sores". The Panel acknowledged how difficult this must be for the Appellant.

The Panel also acknowledged the constraints on the Ministry contained in the Fee for Service-Denturist. Regulation- Schedule C, Section 1 (b) clearly limits the amount eligible as those set out in the Schedule of Fee Allowances-Denturist that is effective January 1, 2007 and is provided at a rate set out for the service in that Schedule and is on file with the deputy minister. Although this fee guide has not been updated since January 1st, 2007, it is still in effect. The amount shown in Appendix C, procedure # 31321 for "Immediate Complete Mandibular Denture" is \$541.00 for persons with Disability status.

Therefore the Panel found as reasonable the Ministry's decision to limit the amount for the Appellant's lower dentures to those given in Fee for Service-Denturist, and as meeting the legislative requirements.

The Panel confirms the Ministry's decision.