

PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision under appeal is the ministry's reconsideration decision dated March 17, 2009 which determined that:

- 1) the appellant is not eligible for coverage for three dental procedures under section 63 and sections 1 and 4 of Schedule C of the EAPWDR at rates in excess of those set out in the Schedule of Fee Allowances - Dentist; and
- 2) the appellant is not entitled to coverage for dental procedure 23323 [permanent molar bonded] under section 63 and sections 1 and 4 of Schedule C of the EAPWDR because he did not have root canal therapy performed between the open and drain procedure and the permanent restoration which the Schedule of Fee Allowances – Dentist states eligibility is predicated on.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR)

- Sections 62 and 63
- Schedule C – sections 1 and 4

PART E – SUMMARY OF FACTS

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 at the time of reconsideration is that the appellant, a recipient of disability assistance, requested coverage for four dental procedures provided in December 2007 respecting a posterior molar tooth. A dentist's statement for the period December 5, 2007 – January 20, 2009 details the procedures provided (01204/exam, 02111/x-ray, 39202/open and drain molars, and 23323/permanent molar bonded), the rates charged by the dentist, the insurance portion (ministry rates), two separate payments made by the appellant totaling \$90.00, and an outstanding balance of \$173.36.

At the hearing, the appellant stated that he had a molar tooth "cleaned out" [open and drain procedure] and was informed by his dentist that a root canal was needed but would be performed at a later date. The appellant states that he was advised by the dentist, at the time the open and drain procedure was being performed, that the dental procedures he required to save the molar tooth would be covered by insurance; however, once coverage was denied for the procedure, the dentist refused to provide any further service until the appellant's account was paid in full. The appellant also reported that a collection agency has been used to obtain the outstanding payment. The appellant states that the work on his molar tooth is "half done" and that it is very important that this tooth be saved because he has a medical condition that leaves him unable to eat roughage; therefore, he requires his molars to chop food to a fine consistency.

At the hearing, the ministry acknowledged the appellant's health and diet issues but stated that the appellant is not eligible for the coverage requested for the reasons provided in the reconsideration decision. The ministry also stated that the dentist should bear some responsibility for the situation the appellant is in and should arrange a payment plan that the appellant can manage.

The panel makes the following findings of fact: (a) the dentist's rates for the dental procedures provided to the appellant are in excess of ministry rates outlined in the Schedule of Fees - Dentist; (b) the permanent molar bonded dental procedure was not preceded by root canal therapy.

ATTACH EXTRA PAGES IF NECESSARY

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issues to be decided are (1) whether the ministry decision that the appellant is not eligible for coverage under the EAPWDR for three basic dental procedures to be performed at rates in excess of those set out in the Schedule of Fee Allowances is reasonable and (2) whether the ministry decision that the appellant is not eligible for coverage under the EAPDWR for a dental procedure [permanent molar bonded] because the Schedule of Fee Allowances – Dentist states that “following an open and drain, a permanent restoration on a posterior tooth will not be paid without evidence of intervening root canal therapy” is reasonable.

Under section 62(1)(a) of the EAPWDR, the minister may provide any health supplement set out in section 2 [general health supplements] of Schedule C to or for a person who is a recipient of disability assistance.

Under section 63 of the EAPWDR, the minister may provide any health supplement set out in section 4 [dental supplements] of Schedule C to or for a person who is eligible for health supplements under section 62(1)(a) to (d).

Section 1 of Schedule C of the EAPWDR defines “basic dental service” as a dental service set out in the Schedule of Fee Allowances – Dentist that is provided by a dentist at the rate set out in that Schedule. Section 4 of Schedule C provides that health supplements under section 63 [dental supplements] are basic dental services to a maximum of \$1,000 for a specified 2 year period.

Page 13 of the Schedule of Fee Allowances – Dentist provides that “following an open and drain, a permanent restoration on a posterior tooth will not be paid without evidence of intervening root canal therapy”.

The appellant’s position is that his dentist advised that the dental procedures the appellant required would be covered by insurance and that failure to receive coverage has left him in need of dental treatment to prevent the loss of a molar tooth, which if lost, will negatively impact his overall health.

The ministry’s position is that (1) the appellant is not eligible for coverage for dental procedures 01204, 02111, and 39202 at rates in excess of those set out in the Schedule of Fee Allowances – Dentist, and (2) the appellant is not eligible for coverage for procedure 23323 because that procedure, which followed an open and drain procedure, was not preceded by root canal therapy which is a requirement set out in the Schedule of Fee Allowances – Dentist.

In considering whether the ministry reasonably determined that the appellant was not eligible for coverage above ministry rates for procedures 01204, 02111, and 39202 the panel examined the legislative provisions respecting the provision of “basic” dental services. While section 63 of the EAPWDR allows for the provision of health supplements in the form of dental supplements under section 4 [basic dental] of Schedule C of the EAPWDR, the definition of “basic” dental services

ATTACH EXTRA PAGES IF NECESSARY

EIA102(05/06/17)

31

consideration of the terms of eligibility expressly stated in the Schedule of Fee Allowances – Dentist.

The panel confirms the ministry’s reconsideration decision as being a reasonable application of the EAPWDR in the circumstances of the appellant.