

## PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

In the reconsideration decision dated April 20, 2009, the Ministry denied the Appellant's request for dentures. The Ministry concluded the Applicant was not eligible to receive dentures under Section 68 of the Employment and Assistance Regulation (EAR) because he does not have a Person with Multiple Barriers to Employment designation. The Ministry determined the Applicant was not eligible for dentures under Section 69 and Schedule C, Section 5 of the EAR because his teeth were not extracted within last six months. The Ministry also determined that although the Applicant is eligible to receive emergency dental supplements, dentures are not included in the Schedule of Fee Allowances- Emergency Dental- Dentist. Lastly, the Ministry determined there was no information to establish there was a life-threatening health need as required for the Applicant to be eligible to receive dentures under EAR, Section 76.

## PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance Regulation (EAR) Sections 68, 69, 70 and 76.  
Employment and Assistance Regulation (EAR) Schedule C, Sections 1,5 and 6.

## 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 included Pacific Blue Cross (PBC) records that showed no dental claims from the Appellant between March 1, 2007 and April 20, 2009 and the request for dentures dated April 20, 2009. Also included were two notes dated October 2, 2008 and October 24, 2008 from the Appellant's denturist stating she called PBC and had been told the Appellant had no major coverage for dentures.

The evidence before the Ministry also included a letter submitted by the Applicant dated October 9, 2008 stating the importance of teeth for his diet and health, appearance, speech and self esteem. He further states his teeth had been extracted more that 5 years ago because of pain. He believes he should be eligible for dentures after this length of time.

The Appellant submitted a note from his doctor as new evidence at the hearing. In the note the doctor states the Appellant's health is suffering due to his poor diet and that his gums are receding. The Ministry raised no objection to this new evidence. The Panel admitted the doctor's note under the Employment and Assistance Act, Section 22(4) because it supports the statement within the Appellant's letter before the Ministry, that his diet is nutritionally limited and may lead to future health issues.

The Appellant also explained that the Ministry had helped with the costs associated within the extraction of his teeth five years ago, but he had purchased his dentures with the help of his family at that time. He states these original dentures are beyond repair, that he has gone without dentures for approximately one year and that his family cannot afford to help him with new ones.

The Ministry submitted that the Appellant does not have a person with persistent multiple barriers designation and is not eligible for dentures under EAR, Section 68. The Ministry states the Appellant, as a recipient of income assistance, is not eligible for dentures under EAR, Section 69 because the extractions were not done within the past six months. Furthermore, the Ministry states dentures are not an eligible item under emergency dental supplements, in EAR, Section 70. Lastly the Ministry states that they have no evidence from a health professional to illustrate a life threatening need to cause the dentures to be eligible under EAR, Section 76.

The Panel finds the Appellant's teeth were extracted over five years ago and the Appellant has been without dentures for one year. The Panel finds that PBC established the Appellant's ineligibility for denture coverage based on the evidence submitted by the Appellant's denturist.

The Panel finds the Appellant's letter with the supporting note from his doctor illustrates a challenge to the Appellant to maintain a nutritionally sound diet, however the doctor's note does not illustrate a life threatening need.

ATTACH EXTRA PAGES IF NECESSARY

## PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue in this case is the reasonableness of the Ministry's decision to deny the Appellant dentures.

The legislation provides for dental work in several sections. As a recipient of Income Assistance, to receive dental supplements under EAR, Section 68, the applicant must be designated a Person with Multiple Barriers to Employment. Under EAR, Section 69, the Ministry may provide any health supplement set out in Schedule C, Section 5 (dental supplements) if the applicant has had tooth extractions performed in the last six months because of pain and those extractions resulted in the applicant requiring a full upper denture, a full lower denture, or both. Under EAR, Section 70 emergency dental supplements are allowed. However, dentures are not included in the Schedule of Fee Allowances - Emergency Dental – Dentist. Lastly, EAR, Section 76 states the Ministry may provide any health supplement set out in Schedule C if the health supplement is necessary to meet a life-threatening health need and no resources are available in the applicant's family unit to meet that need.

The Ministry argues the Appellant is not a Person with Multiple Barriers to Employment and therefore is not eligible under EAR Section 68. The Ministry argues the Appellant is not eligible under EAR, Section 69 because the teeth extractions were done more than six months ago. The Ministry states that dentures are not an allowable emergency dental supplement under EAR, Section 70. The Ministry argues there is no evidence to illustrate a life-threatening need to meet the eligibility under EAR, Section 76.

The Appellant argues that he had his teeth extracted five years ago and needs dentures for his physical and mental well being. The Appellant's doctor supports the claim that the Appellant's diet is suffering and his gums are receding.

The Panel finds the Appellant is not eligible for dentures under EAR, Section 68 because he is not designated as a Person with Multiple Barriers to Employment. The Panel finds that because the teeth extractions were performed several years ago, the dentures are not eligible under EAR, Section 69. The Panel finds dentures are not an allowed item under EAR, Section 70 emergency dental supplements.

The Panel has found the evidence submitted from the health professional does not establish a life threatening need. Therefore, the Panel finds there is no evidence in this case for the dentures to be eligible under EAR, Section 76.

The Panel finds the Ministry's decision was a reasonable application of the enactment in the circumstances of the Appellant and confirms the decision.

ATTACH EXTRA PAGES IF NECESSARY