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## PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The ministry in its reconsideration decision dated January 16, 2009 found the appellant ineligible for additional funding for her basic dental services over and above ministry rates (as set out in the ministry's Schedule of Fee Allowances) and further found her ineligible for a crisis supplement (to fund the additional costs of her dental services).

## PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

*Employment and Assistance for Persons with Disability (EAPWD) Act*, Section 1 [Interpretation: "disability assistance," "supplement"], Section 5

*Employment and Assistance for Persons with Disability (EAPWD) Regulation*, Sections 57, 62, 63, 64; Schedule C, Section 1 [Definitions: "basic dental service," "dentist," "emergency dental service"], Sections 4, 5

## 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 was:

- Appellant is the recipient of persons with disability assistance.
- Appellant contacted the ministry on September 26, 2008 and asked if the extra amount charged by her dentist over and above the ministry's Schedule of Fee Allowances could be covered. The ministry advised that it had no provision to pay this additional cost.
- On January 13, 2009, appellant submitted a request for reconsideration attaching the proposed treatment estimate from her dentist which shows a total cost for her dental services in the amount of \$2,859.70 less \$838.24 covered by the ministry leaving a patient portion of \$2,021.46.

The appellant provided evidence that:

- She is asking for additional monies to cover the patient portion of her dental procedures because she does not have the resources to pay her portion. Once she has paid her monthly expenses, she is lucky to have \$50 dollars left over for groceries and therefore she cannot save any money to use towards paying for her dental work.
- She was planning to have knee surgery, but the doctor told her to get her teeth out first because her bad teeth could cause infection after the operation.
- She needs to have her upper teeth pulled so she can get upper dentures in order to chew her food.

The ministry's submission on appeal provides the following additional evidence:

- On or after January 13, 2009, the ministry contacted appellant's dental provider to discuss her treatment plan because the estimate submitted with her request for reconsideration was not legible. Appellant's dental provider suggested utilizing a denturist as denturist's rates are lower than dentist's rates.
- The ministry made inquiries to confirm that no other funding for the requested dental procedures was available.
- Appellant is eligible for \$1,000 of dental services for the current period and can be considered over the \$1,000 limit if dentures are inserted within 6 months post-extractions.
- Appellant was offered and given medical transportation funds to attend an appointment with a denturist on March 4, 2009 which she attended.
- The ministry made further inquiries on behalf of appellant and found a dentist in the community with hospital privileges. This information was passed on to the denturist when he called the ministry during appellant's consultation on March 4, 2009.
- The denturist will make a referral to the dentist with hospital privileges who will contact appellant for a consultation. If the extractions are completed in the hospital, they are covered under the provincial medical services plan (MSP) and do not affect appellant's \$1,000 maximum dental allowance.

The panel accepts the evidence presented on behalf of the ministry and appellant under *Employment and Assistance Act*, section 22(4)(b) because it is generally in support of the information and records that were before the ministry when the decision being appealed was made.

The panel finds the above facts are not in dispute.

ATTACH EXTRA PAGES IF NECESSARY

## PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue to be decided on this appeal is the reasonableness of the ministry's reconsideration decision denying appellant's request for additional funding for basic dental services over and above ministry rates (as set out in the ministry's Schedule of Fee Allowances) and denying her a crisis supplement (to fund the additional costs of her dental services).

The ministry argues that while appellant is eligible for dental benefits under EAPWD Regulation, Sections 63, 64 and Schedule C, Sections 1, 4 and 5, she is not eligible for benefits in excess of ministry rates and neither is she eligible under EAPWD Regulation 57(3) for a crisis supplement to cover the additional costs.

The appellant argues that she requires dental work as set out in the proposed treatment estimate by her dentist dated September 17, 2008; that her dental work must be completed prior to knee surgery to avoid potential infection; that she requires upper dentures in order to chew her food; and that she does not have the resources to pay for the amounts in excess of ministry rates (Total estimate \$2,859.70 less \$838.24 covered by ministry rates leaving a patient portion of \$2,021.46).

EAPWD Regulation, Section 63 provides:

The minister may provide any health supplement set out in section 4 [*dental supplements*] of Schedule C that is provided to or for a family unit if the health supplement is provided to or for a person in the family unit who is eligible for health supplements under section 62(1)(a) to (d) [*general health supplements*].

Appellant qualifies under Section 63 above because she is a recipient of disability assistance [Section 62(1)(a)].

EAPWD Regulation, Schedule C, Section 4 – dental supplements – provides:

- (1) In this section, “**period**” means 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...

EAPWD Regulation, Section 64 – Emergency dental and denture supplements – provides:

The minister may provide any health supplements set out in section 5 of Schedule C to or for a family unit if the health supplement is provided to or for a person in the family unit who is eligible for health supplements under Section 62(1) [*health supplements*].

Appellant also qualifies under Section 64 above because she is a recipient of disability assistance.

EAPWD Regulation, Schedule C, Section 1, [Definitions] “emergency dental service” means a dental service necessary for the immediate relief of pain...

Appellant provided no evidence that the requested dental procedures were necessary for the immediate relief of pain. Therefore, the panel finds there was no evidence before the ministry that appellant required emergency dental services.

ATTACH EXTRA PAGES IF NECESSARY

EAPWD Regulation, Section 57(3) – Crisis supplement – provides:

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

Appellant is not eligible for a crisis supplement under Section 57(3) above because she qualifies for a supplement described in Schedule C (dental benefits).

However, the ministry has suggested options which may allow appellant to obtain her upper dentures by either having a denturist perform the extractions at less cost than a dentist or by having her extractions completed in the hospital under MSP. The latter option would preserve her \$1,000 maximum dental for the period covered and allow her to proceed with her dental work on her lower teeth and receive funding towards this work based on ministry rates.

In conclusion, the panel finds that the ministry's reconsideration decision finding appellant ineligible for additional funding for her basic dental services for the proposed treatment estimate over and above ministry rates ("basic dental service" means a dental service that if provided by a dentist or denturist is set out in the ministry's Schedule of Fee Allowances – Dentist/Denturist and is provided at the rate set out for the service in that Schedule) and finding her ineligible for a crisis supplement was a reasonable application of the applicable legislation in the circumstances of the appellant under *Employment and Assistance Act*, Section 24(1)(b) and confirms the ministry's decision.