

**PART C – DECISION UNDER APPEAL**

The decision under appeal is the ministry's reconsideration decision dated February 3, 2010. The ministry determined that the appellant, who is eligible for Schedule C supplements, is not eligible for dental benefits in excess of ministry rates as set out in the Schedules of Fee Allowances-Dentist under section 69 of the Regulation.

**PART D – RELEVANT LEGISLATION**

Employment and Assistance for Person with Disabilities Regulation (EAPWDR) Sections 63,64 & 69  
EAPWDR Regulation Schedule C, Sections 1,4, and 5  
Schedules of Fee Allowances-Dentist and Emergency Dental-Dentist

## **PART E – SUMMARY OF FACTS**

The evidence before the ministry at reconsideration was comprised of:

- Appellant's Blue Cross Dental Claim Details from January 1, 2009 to February 3, 2010.
- Ministry Schedule of Fee Allowances and Dental Policy.
- Letter from the appellant's oral surgeon dated December 10, 2010 requesting extended coverage for the proposed course of treatment.
- Letter from the appellant's physician dated December 09, 2009 stating that the appellant faces a life threatening condition.
- Letter from the appellant's dentist dated December 14, 2009 confirming that he had referred her to the oral surgeon.

The reconsideration decision dated February 3, 2010 approved coverage for dental procedures not to exceed the fees set out in the Schedules of Fees Allowances-Dentist and Emergency Dental-Dentist. A letter dated February 3, 2010 authorized the appellant's oral surgeon to provide dental supplements as set out in Appendix A. Appendix A stated the approved dental procedures and the ministry rates for those supplements.

At the hearing, the appellant stated that the dental work had been completed on February 22, 2010 and that she had paid \$1232.82 to the oral surgeon which was the amount that the surgeon's fees exceeded the ministry rates. The appellant stated that the work had to be done by an oral surgeon outside of a hospital because of a two-year wait for hospital admission. The appellant suffers from lung cancer and because of the deterioration in her health could not wait that long.

The appellant stated that she had used her husband's disability cheque and that they had pawned some of their possessions including their wedding rings to pay for the extractions. She also stated that they were about \$3000 in arrears on their rent.

The ministry provided a written submission that summarized the ministry's position as outlined by the reconsideration decision and stated that certified specialists may receive an additional 10% above the ministry fee schedules when a person is facing a life-threatening need. At the hearing the ministry noted that the ministry had provided an emergency shelter grant to the appellant to assist them with their finances. She also stated that Blue Cross had paid the oral surgeon \$1037.18 for the appellant's procedures. This amount was made up of the \$1000 limit plus the 10% surcharge minus the amount that Blue Cross had paid for dental services used by the appellant during the current two-year period.

The facts in the appeal are not in dispute.

PART F – REASONS FOR PANEL DECISION

The issue to be decided on this appeal is whether or not the ministry's decision denying the appellant's request for dental benefits in excess of rates established by the ministry and in excess of the \$1,000 limit for basic dental services is reasonably supported by the evidence or was a reasonable application of the applicable legislation in the circumstances of the appellant.

The EAPWDR sets out the criteria for dental supplements:

**SCHEDULE C Health Supplements Definitions**

- 1 In this Schedule: "basic dental service" means a dental service that
  - (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 the rate set out for the service in that Schedule , and...

"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...

**Dental supplements**

- 4 (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
  - (a) \$700 each calendar year, if provided to a dependent child, (b) \$1 000 each period, if provided to a person not referred to in paragraph (a), (B.C. Reg. 163/2005) (c) Repealed. (B.C. Reg. 163/2005)...

**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 supplements**

- 63 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) or (f) [general health supplements]. (B.C. Reg. 170/2008)

#### Emergency dental and denture supplements

- 64 The minister may provide any a 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].

#### Health supplement for persons facing life threatening health need

- 69 The minister may provide any health supplement set out in Schedule C [health supplements] to a family unit that includes a person with disabilities, 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
  - (a) the person faces a life-threatening health need and there are no resources available to the person's family unit with which to meet that need, and (b) the minister determines that the health supplement is necessary to meet that need.

The appellant's argument is that she should receive benefits in excess of ministry rates because she does not have the funds to fully pay for the claimed dental procedures.

The ministry's argument is that the appellant was provided with basic dental services under section 4(1) of the Regulation that limits payment to \$1000 in each two-year period beginning on January 1 of each odd numbered year. The ministry is not able to cover amounts in excess of this amount nor are they able to exceed the rates set out in the Schedule of Fee Allowances except where the appellant faces a life-threatening health need.

The panel finds that although the appellant faces a life-threatening health need and is eligible for any health supplement under Schedule C however, the services requested are subject to the limits specified in the legislation.

Therefore, the ministry's reconsideration decision denying the payment for dental benefits in excess of the rates established by the ministry is a reasonable application of the applicable enactment in the circumstances of the appellant under EAA, Section 24(2)(a).

The panel confirms the ministry's decision.