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PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The appellant is appealing the reconsideration decision of December 24, 2009 regarding the Ministry's decision to deny her request for reimbursement of dental costs for procedures performed by a dentist at a rate that exceeds that set out in the Ministry's Schedule of Fee Allowances –Dentist.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance Regulation, Section 67, 68. (EAR)
Employment and Assistance Regulation, Schedule C, Sections 1 and 4 (EAR)
Schedule of Fee Allowances – Dentist (January 1, 2007)

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 Reconsideration included:

1. the appellant's claims history as set out in the Dental Claim Details document (two pages)
2. the appellant's Dental Benefit Eligibility form
3. the Request for Reconsideration
4. a letter from the appellant dated December 8, 2009
5. a letter from the appellant dated October 14, 2009
6. a Family Claim Ledger
7. Statement of fees from the appellant's dentist dated July 22, 2009

The appellant submitted a two-page letter dated January 22, 2010 as part of her appeal of the reconsideration decision. The panel accepted the evidence under section 22(4) of the Employment and Assistance Act.

The appellant, who is a recipient of income assistance, has three dependent children. Each is eligible for dental supplements under Section 68 of the EAR. On October 14, 2009, the appellant submitted a letter to the ministry indicating that she had received a bill from her dentist for a total of \$442.67 for dentistry procedures conducted on two of her children. In the letter she states that she is a single parent of two children (her third child was born after this letter was sent), and requests that the ministry reconsider her request to have these fees covered by the ministry. On December 8, 2009, along with her Request for Reconsideration form, the appellant attached a letter indicating that the dentistry bill for procedures performed on her two daughters now stands at \$529.54. She states that she was told by her dentist that these procedures would be fully covered by the ministry.

The ministry's reconsideration decision deals with bills and dental procedures regarding only one of the appellant's daughters. Outstanding fees regarding procedures performed on the appellant's second daughter, therefore, are not the subject of this appeal.

Between May 17 and June 3, 2009, the appellant's daughter received various dental services including: a Specific exam; a Periapical X-ray; Polishing; a Space Maintainer. The appellant's dentist requested payment for the procedures from the ministry and the ministry paid out amounts for those procedures as set out in the chart below, the Schedule of Fee Allowances – Dentist.

Procedure Code	Procedure Description	Requested Fee	Ministry Schedule Fee
01204	Specific Exam	29.00	21.75
02111	Periapical X-ray	9.95	69.13
11101	Polishing	31.90	24.03
15101	Space Maker	195.60	138.36
	Total	271.40	194.09
	Difference: \$77.31		

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The Ministry stated in the appeal record that Schedule C of the EA Regulation provides a definition for basic dental services. All the procedures offered to the appellant's daughter by the dentist fall within this definition. The ministry further stated that it is limited by the rates prescribed by the Schedule of Fee Allowances-Dentist established by the legislation in terms of what it is able to pay out for these basic dental services. It states that the request for coverage for the balance of the fees owing, \$77.31, does not meet the eligibility criteria set out in the regulation as the fees charged by the dentist are in excess of the amounts set out in the Schedule of Fee Allowances – Dentist.

In her written submission, the appellant stated that she was told in advance that all her costs for her child's dental procedures would be covered, and that she proceeded with the appointments on that basis. She also stated that her daughter never received the space maintainer. Finally, the appellant noted that having to pay the excess fees presents a hardship for her, and she is requesting that her appeal be considered under Section 59 of the Employment and Assistance Regulation which pertains to crisis supplements. She stated that "the additional charges for dental work is an unexpected expense as I had been assured that all the dental work would be covered . . . I have exhausted all resources to pay for the bill. I am unable to meet the financial obligation as I need to feed my family. The inability to pay poses a risk to the physical health of my family as there may be additional service charges on the bill, if I pay the bill I will not be able to pay rent or feed my family. This poses a risk to the health of my family and also creates a risk of removal of my children if I am living on the street."

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

At issue is the reasonableness of the ministry's decision to deny the appellant's request for reimbursement of dental costs for procedures performed by a dentist at a rate that exceeds that set out in the Ministry's Schedule of Fee Allowances –Dentist.

Section 67 (1) of the EAR states:

The minister may provide any health supplement set out in section 2 [general health supplements] or 3 [medical equipment and devices] 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:

(d) is a child in the home of a relative, if equivalent payment for the service is not available through the child's parents.

Section 68 of the EAR states that:

The minister may provide any health supplement set out in section 4 [dental supplement] 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:

(a) referred to in section 67 (1)(d).

Section 4 [dental supplements] of Schedule C provides that

4(1.1) The health supplements that may be paid under section 68 [dental supplements] of this regulation are basic dental services to a maximum of

(a) \$700 each calendar year, if provided to a dependent child or a child in the home of a relative.

Schedule C of the Employment and Assistance Regulation offers the following definition:

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

The Schedule of Fee Allowances – Dentist sets out the fee amounts that the Ministry will cover.

These include:

- For 01204, Specific Oral Examination: \$21.75
- For 02111, Periapical X-ray: \$9.95
- For 11101, Polishing: \$24.03
- For 15101, Space Maintainer: \$138.36

ATTACH EXTRA PAGES IF NECESSARY

The Ministry's position is that the appellant's request for coverage for the balance of the fees owing does not meet the eligibility criteria set out in the Regulation as these fees are in excess of the rates set out in the Schedule of Fee Allowances-Dentist as outlined above. Thus, the Ministry denied the appellant's request for further coverage of fees for those procedures.

The appellant's position is that she was informed in advance by the dentist that the fee for the procedures would be fully covered, and that she proceeded on that basis. She adds that her daughter never received one of the procedures – the provision of a space maintainer. She states that she is not able to pay the balance of the fees, and that to do so would present a hardship to her and her children. She argues that her request should be considered under ministry legislation pertaining to crisis supplements (Section 59).

The panel notes that the appellant has asked that the panel consider a request for a crisis supplement as she was not expecting to have to cover these costs, and that, according to the appellant, she will not be able to pay her rent or feed her children if she is forced to pay her dental bill. The panel finds, however, that this request lies outside its jurisdiction as it was not part of the reconsideration decision; the panel must limit its consideration of the appeal to the appellant's initial request that the ministry reconsider its decision to deny the appellant coverage for the balance of fees owing on the basis that these fees are in excess of the rates set out in the Schedule of Fee Allowances – Dentist, as prescribed by the legislation.

The panel notes that the appellant is eligible for a dental supplement as per Sections 67 and 68 of the EAR. Moreover, there is no evidence that the total cost of procedures requested has topped the \$700 limit established by Section 4 of Schedule C. The panel further notes that all four of the procedures for which payment is being requested are considered basic dental services, and are thus eligible for coverage by the ministry.

However, the Schedule of Fee Allowances-Dentist establishes a limit on what the ministry may pay out for each basic dental service. The panel notes that the ministry has paid out the maximum allowable amount for each service, and that this amount does not cover the full fee charged by the appellant's dentist. The panel acknowledges that the appellant may have been told by her dentist that the ministry would cover her daughter's dental costs in full. However, there is nothing in the legislation that allows the ministry to exceed the fees as set out in the Schedule of Fee Allowances - Dentist.

The panel notes, finally, that the appellant has stated that her daughter never received the space maker or maintainer. It is clear, however, that the ministry has been billed, and paid the dentist for, this service, and thus it considers this payment to be part of this appeal decision. The panel notes, however, that the appellant does have recourse to approach the dentist to clarify this charge.

The panel thus finds that the ministry's decision was reasonably supported by the evidence and confirms the ministry decision.