

PART C – DECISION UNDER APPEAL

The ministry reconsideration decision dated May 5, 2010 that confirmed a ministry decision to deny the appellant reimbursement for dental services in excess of the \$1000 limit and for basic dental service fees in excess of the rates set out for services in Schedule of Fee Allowances-Dentist and for procedures that are not set out in the Schedule.

PART D – RELEVANT LEGISLATION

Employment and Assistance Act for Persons with Disabilities Regulation (EAPWDR) section 63
Employment and Assistance for Persons with Disabilities Regulation Schedule C, sections 1 and 4
Schedule for Fee Allowances- Dentist

Note: The Regulation concerning dental supplements was changed effective April 1, 2010. The dental services were provided, the original decision rendered, and the Request for Reconsideration was made under the Regulations and Schedule of Fee Allowances that were in effect prior to April 1, 2010. This decision is made pursuant to the Regulation and Schedule of Fee Allowances that were in effect at that time.

PART E – Summary of Facts

The evidence before the ministry at the time of reconsideration is largely contained in the appellant's Request for Reconsideration, which includes a written statement by the appellant's parents dated January 9, 2010, a copy of a statement and an income tax receipt from the appellant's dental provider dated March 18, 2010, a letter from the dental provider dated June 11, 2009 concerning the treatment received by the appellant, and a dental pre-authorization remittance statement from Blue Cross dated March 21, 2009.

Also in evidence are a written submission from the ministry dated June 9, 2010 and a written submission from the appellant's parents dated May 27, 2010 and a release of information dated May 28, 2010 in which the appellant gives his father permission to receive all information in this matter and to make decisions on the appellant's behalf. The submissions were accepted under section 22 (4)(b) of the Employment and Assistance Act.

The appellant suffers from paranoid schizophrenia with ever increasing severity of symptoms which include auditory hallucinations, delusions, paranoia, inability to concentrate, manage personal hygiene, nutrition, health and grooming, lethargy, autism, depression, loss of self esteem and an inability to study, work, form personal relationships or execute executive planning.

Recently, the appellant's condition has been somewhat stabilized by anti-psychotic medication. However, in the previous 25 years the appellant has neglected his nutrition with resulting dental problems. For several years, he refused all dental treatment. In 2009, when he agreed to have dental work done, the total came to \$1905. The appellant used his grocery money of \$172 to get the work started, Blue Cross paid \$1000 and his parents were obligated to pay the remainder (\$733). They also refunded the appellant's grocery money so he could eat.

The appellant's parents are requesting a coverage for the \$905, which Blue Cross did not pay. They are retired with limited funds and in addition to the dental costs have purchased clothing, footwear, bedding and grooming and housekeeping supplies, paid phone bills and helped with accommodation costs for the appellant.

The appellant's submission also notes that in past years, the appellant has not used the full coverage for dental costs permitted under the legislation.

The ministry submission was the reconsideration summary provided in the hearing

materials.

On March 13, 2009, the ministry informed the appellant of the \$1000 limit on basic dental services and that the ministry was not able to provide coverage for fees in excess of that amount.

On June 18, 2009 the ministry received a letter from the appellant's dental provider explaining why all of the dental work was necessary immediately and asking if there was another source to pay the amount of the dental costs that were over the legislated limit.

On January 11, 2010, the ministry received a letter from the appellant's parents describing the appellant's medical condition and resulting dental problems. Attached was a statement from the dental provider indicating that the parents had paid the remainder of the bill, which was \$906. They requested reimbursement from the ministry.

PART F – Reasons for Panel Decision

The issue in this appeal is the reasonableness of the ministry's reconsideration decision to deny the appellant's request for coverage for dental services provided in excess of the \$1000 limit for basic dental services, for services not set out in the Schedule of Fee Allowances-Dentist, and for fees in excess of the rates set out in the Schedule.

Under Schedule C of the EAPWDR

"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 April 1, 2010 and is on file with the office of the deputy minister, and (B.C. Reg. 65/2010)
 - (ii) is provided at the rate set out for the service in that Schedule,

"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 April 1, 2010 and is on file with the office of the deputy minister, and (B.C. Reg. 65/2010)
 - (ii) is provided at the rate set out in that Schedule

Section 4(1)(1.1) of Schedule C sets out the monetary and time limits for dental supplements:

4 (1) In this section, "period" means

- (a) in respect of a dependent child or a child in a home of a relative, a 2 year period beginning on January 1, 2009 and on each subsequent January 1 in an odd numbered year, and
- (b) in respect to a person not referred to in paragraph (a), a 2 year period beginning on January 1, 2003 and on each subsequent January 1 in an odd numbered year. (B.C. Reg. 65/2010)

(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) \$1400 each period, if provided to a dependent child and (B.C. Reg. 65/2010) (B.C. Reg. 48/2010)

(b) \$1 000 each period, if provided to a person not referred to in paragraph (a). (B.C. Reg. 162/2005)

The ministry argues that the appellant was aware of the \$1000 limit for basic dental services and that the ministry would not provide reimbursement for fees in excess of the limit.

The ministry position is that the \$1000 limit can only be exceeded if the need for emergency services has been identified.

The parents of the appellant argue on his behalf that due to the appellant's paranoid schizophrenia, he had refused all dental treatment from 2000-2008. Once his condition had been stabilized by medication, he agreed to see a dentist. The dentist asserted that the treatment required could not be delayed or the appellant would face more extractions. The parents also feared that the appellant would become non-compliant and that they had to take the opportunity to have his dental problems corrected.

The parents of the appellant argue that they should receive coverage for the \$905 that they paid for the services in excess of the limit because the appellant has not used up his allotted \$500 per year in the past.

The panel finds that there is evidence that the dental procedures required were urgent. However urgency does not meet the requirements of the legislation which narrowly defines "emergency dental service" as a dental service necessary for the relief of pain. There was no evidence to suggest that the appellant suffered from any pain.

The panel also notes that the dental services provided included some procedures not set out in the Schedule of Fee Allowances-Dentist and that the amount charged by the dentist for some procedures exceeded the amounts legislated under the Schedule.

The panel finds the ministry's reconsideration decision denying payment of fees in excess of \$1000 was reasonably supported by the evidence and the decision is confirmed under section 24 (2)(a) of the EAA.