

[REDACTED]

PART C – DECISION UNDER APPEAL

The decision under appeal is the Reconsideration Decision dated January 5, 2009, in which the Appellant's was denied coverage for a partial denture and bridgework.

The Ministry finds that the Appellant is eligible under Employment and Assistance for persons with Disabilities Regulations (EAPWDR) for an acrylic maxillary or mandibular partial denture specified under numbers 52101, 52102, 52301, 52302, 52401 and 52402 at the rates set out in the Ministry's Schedule of Fee Allowance-Dentist and provided they do not exceed \$570.95 that the Appellant has remaining of her \$1000.00 limit.

The Ministry determined that it is not authorized to provide coverage for a Free End, Cast Frame/Connector with clasps and rests procedure number 53201 or for fees in excess of the rates set out in the Schedule of Fees Allowance – Dentist.

The Ministry has determined that partial dentures are not covered under emergency dental service.

The Ministry also has determined that it is unable to grant a Reconsideration Request for bridgework because no Ministry decision has taken place regarding the Appellant's eligibility for this dental supplement.

PART D – RELEVANT LEGISLATION

EAPWDR, section 63, Schedule C, sections 1 and 4
Schedule of Fee Allowance-Dentist. (SFAD)

PART E – SUMMARY OF FACTS

The evidence before the Panel was provided in part in the Appeal Record and in part of the oral testimony of the Appellant and the Ministry which was admitted pursuant to Section 22 (4) of the EAA, as it was in support of the information that was before the Ministry at reconsideration.

The Appeal Record as part of the evidence were copies of the following documents:

1. Employment and Assistance Reconsideration Decision dated January 5, 2010 including:
 - Appendix A – Reconsideration Decision.
 - Ministry's Telephone Log dated December 29, 2009 to PBC.
 - Ministry's Telephone Log dated January 5, 2010 to a dentist's office asking for clarification concerning their letter of December 10, 2009 regarding procedure number for partial denture and if they had applied to PBC for the bridgework. The office confirmed that no request had been sent for bridgework.
 - Ministry's Telephone Log to a dentist asking if they had submitted a request to PBC for the bridgework for the Standard Dental Claim Form dated December 2, 2009. The office confirmed that no request had been sent.
 - Ministry's Telephone Log dated January 5, 2009 asking for tooth numbers that partial denture was intended to replace and was informed that the Appellant had not come in for an examination.
 - Appendix B: Applicable Legislation.
2. Appellant's PBC Dental Claim Details Summary for the period January 1, 2009 to December 24, 2009.
3. Appellant's PBC Dental Benefit Eligibility summary for the period January 1, 2009 to December 31, 2010.
4. Ministry's Schedule of Fee Allowances – Dentist (SFAD) effective January 1, 2007 covering Prosthodontics – Removable and Emergency Dental including Diagnostic Services, Restorative Services, Restoration, Endodontics Periodontal Services, Prosthodontics, Oral Surgery, Specialist Referrals, Supernumerary Teeth, Section E Preamble – Crowns and Bridgework Supplement, Schedule of Fees and Allowances – Crown and Bridgework.
5. Employment and Assistance Request for Reconsideration signed by the Ministry December 2, 2009 including Appellant's statement dated December 7, 2009.
6. Standard Dental Claim Form – Pre-Determination dated December 2, 2009 from a local dental office.
7. Three pages Fax from a local dental office detailing the dentist's charges of \$1,351.40 to provide a Free-End, Cast Frame/Connector with Clasps and Rests and the Ministry reimbursement of \$800.22, dated December 2, 2009.
8. Prescription form signed by a Prescribed Professional on October 27, 2009 for Protopic 0.03% Ointment.
9. Letter dated December 10, 2009 from a local dental office giving an estimate to provide Acrylic partial denture for \$950.00 and another estimate to supply Three-unit Bridge in the amount of \$2,500.00.

In the Reconsideration Decision, the Ministry has determined that the Appellant is eligible under EAPWDR for an acrylic maxillary or mandibular partial denture (fee numbers 52101, 52102, 52301, 52302, 52401 and 52402) at the rates specified in the Ministry's SFAD and provided the total does not exceed the \$570.95 that the Appellant has remaining of her \$1000.00 biannual limit.

In regards to the eligibility for the request for the partial denture Cast-Mandibular-Free-End, Cast Frame/Connector with clasp and rests, procedure number 53102 of the SFAD, the Ministry finds that this procedure is not included in the services described in EAPWDR, Schedule C subsection 4(5), therefore the Ministry is not authorized to provide coverage for this procedure.

The letter submitted by the Appellant from one dentist's letter dated December 2, 2009, indicates that a acrylic partial denture and a three-unit bridge is being requested but fails to identify the teeth the partial denture is intended to replace but that the teeth would be within the 24 – 27 range. The dentist's office advised the Ministry that the procedure specified for the partial plate was number 52301 (Acrylic partial with metal wrought/cast clasps and/or rests). The Ministry's finds that the rate for this procedure is \$410.21 (lab fees included) and as this amount does not exceed the \$570.95 of the Appellant's \$1000.00 limit, the Ministry is authorized to provide this coverage.

The \$1000.00 maximum for basic dental services may be exceeded if the procedures requested are emergency dental

services under EAPWDR, Schedule C, section 5. However, emergency dental services are defined in Schedule C, section 1 of the EAPWDR as services necessary for the relief of pain as set out in the Schedule of Fee Allowances – Emergency Dental – Dentist (SFAEDD). Partial dentures are not set out in the SFAEDD, therefore the Ministry is not authorized under the legislation to provide the coverage for partial dentures as an emergency service. The Ministry is only authorized to provide coverage for partial dentures as a basic service.

The Ministry finds that two of the dentists indicate that they intend to charge fees in excess of the fees in the Ministry's SFAD. Health supplements the Ministry may provide under EAPWDR, Section 63 are those set out in Section 4 of Schedule C. Section 4 (1.1) and specifies the dental supplements that may be paid under Section 63 are basic "dental services". Partial dentures are identified in subsection 4(5)(a) as "basic dental services" and under Schedule C, Section 1(a)(ii) is provided at the rate set out in the SFAD, therefore the Ministry is not authorized to provide coverage for fees in excess of the rates set out in the SFAD.

The Ministry has also determined that it was unable to grant the Appellant's request for reconsideration concerning bridgework because a request for this supplement has not been submitted by a dental office to PBC therefore no decision as to the Appellant's eligibility has been made. Therefore reconsideration is not available.

At the hearing the Panel Chair confirmed that the Panel would not hear an appeal for the Appellant's request for a bridgework as no reconsideration decision has been made denying her eligibility for that dental supplement.

The Appellant gave evidence at the hearing that a partial denture would not be suitable in her situation because they are not permanent and her medical condition requires that she must chew her food very carefully and she feels that a partial denture would not allow her to do that. She also feels that as a partial denture is removable, she might lose the denture if she has to pack them with her when she goes out. The local dentist that she contacted put in a request for a partial denture type which was rejected by the Ministry. The Appellant was not able to successfully communicate with her local dentist regarding the partial denture that the Ministry has authorized. The Appellant stated that a plastic denture will not work for her because she is allergic to plastic. The Panel noted that the Reconsideration record did not include a copy of the request of the partial denture made by the local dentist. After the Ministry's original denial, the Appellant contacted the dentist she attended before she moved to her current community, and he recommended that a permanent bridge would be best for her condition and he provided an estimate of a partial denture and bridgework to replace the missing teeth. The former dentist also confirmed that he would do the work based on the Ministry's SFAD. The Appellant added this letter to the Request for Reconsideration in the hope that it could be expedited and that she could get the procedure done as soon as possible. The Appellant also contacted her local physician in order to obtain confirmation that she needed the bridgework but this had not been done by the physician because he had expected to be contacted by the Ministry. The Appellant expressed a great deal of frustration over the delay and lengthy procedures that she has had to go through and that she has very limited funds and is unable to have a telephone so that she could communicate both with the Ministry and her dentists and doctor.

The Ministry provided evidence that all requests for dental supplement from PWD client have first to be made to PBC who is the Ministry's partner in assessing dental claims. This assessment can take up to four weeks. When an authorization is made to the request, the Ministry's Dental Claims Department contacts the client's dentist who in turn advises the client. The original request made by the local dentist was for a partial denture under FASD number 53102. The fee for that procedure is in excess of the balance of the Appellant's \$1000.00 limit, however the Ministry authorized six other procedures for a partial denture that would fall within the balance of the Appellant's \$1000.00 limit.

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PART F – REASONS FOR PANEL DECISION

The issues under Appeal are whether the Ministry reasonably concluded that:

- the Appellant is eligible under Employment and Assistance for persons with Disabilities Regulations (EAPWDR) for an acrylic maxillary or mandibular partial denture specified under numbers 52101, 52102, 52302, 52401 and 52402 at the rates set out in the Ministry's Schedule of Fee Allowance-Dentist and provided they do not exceed \$570.95 that the Appellant has of her \$1000.00 limit.
- The Ministry also determined that it is not authorized to provide coverage for procedure number 53102 (Free End, Cast Frame/Connector with Clasps and Rests) or for fees in excess of the rates set out in the Schedule of Fees Allowance – Dentist.
- The ministry finds that partial dentures are not covered under emergency dental services.

Under EAPWDR, Section 63 and Schedule C, Sections 1 and 4 it states that:

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)

Crowns and bridgeworks supplements

63.1 (1) The minister may provide a crown and bridgework supplement under section 4.1 of Schedule C to any of the following persons:

- (a) a recipient of disability assistance;
 - (b) a person with disabilities who has not reached 65 years of age and who has ceased to be eligible for disability assistance because of
 - (i) employment income earned by the person or the person's spouse, or
 - (ii) a pension or other payment under the Canada Pension Plan (Canada);
 - (c) a person with disabilities who was a recipient of disability assistance on the day he or she became 65 years of age;
 - (d) a person referred to in section 62 (1) (f). (B.C. Reg. 170/2008)
- (2) A person referred to in subsection (1) (b) or (c) ceases to be eligible for the supplement if the person's family unit takes up residence outside of British Columbia. (B.C. Reg. 430/2003)

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].

ATTACH EXTRA PAGES IF NECESSARY

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) (ii) is provided at the rate set out for the service in that Schedule, and

(b) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances - Denturist 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; (B.C. Reg. 315/2006)

"dentist" means a dentist registered with the College of Dental Surgeons under the *Dentists Act*;

"denturist" means a denturist registered with the College of Denturists of British Columbia established under the *Health Professions Act*;

"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

(b) (b) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances - Emergency Dental - Denturist, 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;
(B.C. Reg. 315/2006)

(B) 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)

(2) Dentures may be provided as a basic dental service only to a person

(a) who has never worn dentures, or

(b) whose dentures are more than 5 years old.

(3) The limits under subsection (1.1) may be exceeded by an amount necessary to provide dentures, taking into account the amount remaining to the person under those limits at the time the dentures are to be provided, if

(a) a person requires a full upper denture, a full lower denture or both because of extractions made in the previous 6 months to relieve pain,

(b) a person requires a partial denture to replace at least 3 contiguous missing teeth on the same arch, at least one of which was extracted in the previous 6 months to relieve pain, or

(c) a person who has been a recipient of disability assistance or income assistance for at least 2 years or a dependent of that person requires replacement dentures. (B.C. Reg. 94/2005)

(4) Subsection (2) (b) does not apply with respect to a person described in subsection (3) (a) who has previously had a partial denture.

(5) The dental supplements that may be provided to a person described in subsection (3) (b), or to a person described in subsection (3) (c) who requires a partial denture, are limited to services under

(a) fee numbers 52101 to 52402 in the Schedule of Fee Allowances - Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or (B.C. Reg. 94/2005)

(b) fee numbers 41610, 41612, 41620 and 41622 in the Schedule of Fee Allowances - Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule. (B.C. Reg. 94/2005)

(6) The dental supplements that may be provided to a person described in subsection (3) (c) who requires the replacement of a full upper, a full lower denture or both are limited to services under

(a) fee numbers 51101 to 51102 in the Schedule of Fee Allowances - Dentist referred to in paragraph (a) of the definition "basic dental service" in section 1 of this Schedule, or (B.C. Reg. 94/2005)

(b) fee numbers 31310, 31320 or 31330 in the Schedule of Fee Allowances - Denturist referred to in paragraph (b) of the definition "basic dental service" in section 1 of this Schedule. (B.C. Reg. 94/2005)

(7) A reline or a rebase of dentures may be provided as a basic dental service only to a person who has not had a reline or rebase of dentures for at least 2 years.

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(C) Crown and bridgework supplement

4.1 (1) In this section, "crown and bridgework" means a dental service

(a) that is provided by a dentist, (B.C. Reg. 94/2005)

(b) that is set out in the Schedule of Fee Allowances - Crown and Bridgework, that is effective January 1, 2007 and is on file with the deputy minister, (B.C. Reg. 315/2006)

(c) that is provided at the rate set out for the service in that Schedule, and

(d) for which a person has received the pre-authorization of the minister.

(2) A health supplement may be paid under section 63.1 of this regulation for crown and bridgework but only if the minister is of the opinion that the person has a dental condition that cannot be corrected through the provision of basic dental services because

(a) the dental condition precludes the provision of the restorative services set out under the Restorative Services section of the Schedule of Fee Allowances - Dentist, and (B.C. Reg. 94/2005)

(b) one of the following circumstances exists:


(i) the dental condition precludes the use of a removable prosthetic;

(ii) the person has a physical impairment that makes it impossible for him or her to place a removable prosthetic;

(iii) the person has an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic.

(iv) the person has a mental condition that makes it impossible for him or her to assume responsibility for a removable prosthetic.

(3) The minister must also be satisfied that a health supplement for crown and bridgework will be adequate to correct the dental condition.

(4) A health supplement for crown and bridgework may not be provided in respect of the same tooth more than once in any period of 60 calendar months. (B.C. Reg. 430/2003)  Top

(D) 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.

The Ministry's position is that the Appellant does not qualify for partial denture under the Ministry's SFAD procedure number 53102 because the amount that the Ministry allows for this procedure is in excess of the Appellant's current limit of \$570.95. As well, this procedure is not included under EAPWDR, Schedule C, Section (4)(5)(a). However the ministry authorizes partial dentures under procedures 52101, 52102, 52301, 52302, 52401 and 52402 of the SFAD. The Ministry's position is that as these procedures fall under the definition of "basic dental services" it cannot under EAPWDR, Section 63 provides coverage in excess of the SFAD.

The Appellant's position is that she is allergic to plastic and cannot use partial dentures made of this material. The Appellant is also concerned that as dentures are removable she is likely to lose them. Because of her severe condition, the Appellant needs to carefully chew her food and she feels that a partial denture will not enable her to do so and seeks a permanent bridge to replace the missing teeth.

The Panel finds that the ministry's decision regarding the Appellant's \$1000.00 limit was reasonably based on evidence. The Panel finds that as the legislation limits the appellant's basic dental services to a total benefit of \$1000.00 for the period January 1, 2009 to December 31, 2010 as per EAPWDR, Schedule C, Section 4 (1) and (1.1)(b) and that as she has used \$429.05 of the benefit, she has \$570.95 remaining of the benefit. The procedure requested by the local dentist has a fee allowance of \$800.22, therefore exceeds the balance of her dental supplement benefit limit. The Ministry has authorized partial dentures under procedures 52101, 52102, 52301, 52302, 52401 and 52402 since these procedures are less than the basic dental supplement limit.

period January 1, 2009 to December 31, 2010 as per EAPWDR, Schedule C, Section 4 (1) and (1.1)(b) and that as she has used \$429.05 of the benefit, she has \$570.95 remaining of the benefit. The procedure requested by the local dentist has a fee allowance of \$800.22, therefore exceeds the balance of her dental supplement benefit limit. The Ministry has authorized partial dentures under procedures 52101, 52102, 52301, 52302, 52401 and 52402 since these procedures are less than the basic dental supplement limit.

The Panel also finds that it was reasonable for the Ministry to deny the partial dentures under procedure 53102 since it is not included under EAPWDR, Schedule C, Section 4(4)(5)(a).

The Panel also finds that the Ministry was reasonable in finding that procedure 52301 under FSAD is not included under EAPWDR, Schedule C Emergency Dental supplements.

The Panel also finds that under EAPWDR, Schedule C, Section 1, that "basic dental service" is dental service that is provided by a dentist is set out in SFAD that is effective January 1, 2007 and is on file with the office of the deputy minister and provided at the rates set out for the service in that schedule. Therefore The Panel finds that the Ministry was reasonable in not providing coverage in excess of the rates set out in the SFAD.

Based on the evidence provided, the Panel finds that the decision of the Ministry is reasonable and also finds that there has been a reasonable application of the applicable enactment in the circumstances of the Appellant and therefore confirms the decision of the ministry under Section 24 (2)(a) of the EAA.