

PART C – Decision under Appeal

The reconsideration decision dated 15 September 2010 determined that the appellant was not eligible for reimbursement for fees in excess of the rates set out in the Schedule of Fee Allowance – Dentist.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 63 and 64.
EAPWDR, Schedule C, sections 1, 4 and 5.
Schedule of Fee Allowance – Dentist (1 April 2010).

PART E – Summary of Facts

The evidence before the Ministry at reconsideration consisted of:

- A letter from the appellant's dentist, dated 21 May 2010 stating: "[The appellant] was in my office April 13, 2010 with severe pain of #2.6. An xray was taken, tooth had vertical fracture. Due to the difficulty of the extraction required, we referred him to an oral surgeon. [The oral surgeon's] office was able to schedule him promptly and extraction followed with local anesthetic as patient did not want to pay extra fee for sedation. Due to urgency patient chose not to have the consult/quote done first."
- A receipt dated 13 May 2010 outlines the cost of consultation – referral on 19 April 2010 at \$90.00 and the cost of the extraction at \$377.33 and payment made the day of the service was \$201.17. A further notation indicates a payment made 13 May 2010 for \$286.32 as well as a refund for \$20.16.
- A Dental Remittance Statement from Pacific Blue Cross (PBC), dated 8 May 2010, stating the insurer had paid the oral surgeon \$64.51 for the fee item 01601 (examination), that was billed for \$90.00 and \$221.71 for fee item 71211 (extraction), that was billed for \$377.33.
- On 31 May 2010, the appellant requested reimbursement of \$181.01, that was fees in excess of what PBC did cover.
- On 31 May 2010, the appellant's request was denied as the Ministry covers only the dental fees as set out in the Schedule of Fee Allowance – Dentist.
- On his request for reconsideration, stamped by the Ministry on 8 June 2010, the appellant states he was not advised of the limits under the Schedule of Fee Allowance – Dentist and that the first time he heard about this was at the oral surgeon's office. He states "But due to the emergency nature of the tooth extraction... and my high level of pain and anxiety, I felt I could not wait any time for the extraction. The balance of \$181.01 was paid by a relative. Had I known that this was going to cost extra above my coverage, I would have gone to a free clinic. By the time I was in the oral surgeon's office, to get to a free clinic would have been at least another days (sic) delay and at this point that was not an option."
- A Dental Claim Detail sheet for the appellant for the period 1 January 2009 to 3 September 2010 indicates that on two other occasions the appellant's dentist charged over and above the rates provided for in the Schedule of Fee Allowance – Dentist: on 18 March 2009, he was charged \$342 but was only paid \$240.89 and on 13 April 2010, he was charged \$45.50 but was only paid \$31.70.

The Ministry determined at reconsideration that the appellant was not eligible for reimbursement for fees in excess of the rates set out in the Schedule of Fee Allowance – Dentist as the legislation only allows the Ministry to cover dental fees at rates set out in that Schedule. Further, the Ministry determined that the appellant was aware that his dentist's fees were above the rates set out by the Ministry as he had faced the same situation twice in the past and knew the difference would not be paid by PBC.

At the hearing, the Ministry was not in attendance and, after confirming that the Ministry was notified, the hearing proceeded under section 86(b) of the Employment and Assistance Regulation (EAR).

The appellant reiterated his position at the hearing and testified that he had been advised by the Ministry at the outset that he was eligible for up to \$1,000 worth of dental services over a two-year

PART F – Reasons for Panel Decision

The issue under appeal in this case is the reasonableness of the Ministry decision that the appellant was not eligible for fees in excess of the rates set out in the Schedule of Fee Allowance – Dentist.

The EAPWDR provides for dental supplement coverage:

63 (1) Subject to subsections (2) and (3), 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

(a) section 62 (1) (a), (b) (iii), (d) or (e) [general health supplements],...

As well, it provides for emergency dental supplements:

64 (1) Subject to subsections (2) and (3), 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 (B.C. Reg. 67/2010) (B.C. Reg. 114/2010)

(a) section 62 (1) (a), (b) (iii), (d) or (e) [general health supplements],...

Basic and emergency dental services are defined at section 1, 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

(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, ...

The Schedule of Fee Allowance – Dentist (1 April 2010) provides for both basic and emergency dental services' fees, which are the same for the extraction (71211) in the present matter while for emergency dental services, there is no provision for the examination by an oral surgeon (01601):

Fee No.	Fee Description	Fee Amounts (\$)
01601	Examination and Diagnosis, Surgical by Oral Surgeon	64.61
71211	Extraction – Single tooth	201.55

The Schedule at page 24 (Specialist Referrals) provides for an extra 10% when "certified specialists, including oral surgeons", provide the service.

The Ministry argues that the legislation does not authorize any payment in excess of the rates provided for dental services in the Schedule of Fees and Allowance – Dentist and that the appellant had known given that he had already received dental services twice from his dentist that were charged over and above the rates set out in the said Schedule.

The appellant argues he did not know there were set rates for specific services and that he still has

over \$700 left in his allocation for dental services. He argues that the Ministry should have provided the Schedule of Fees and Allowance – Dentist to him when he became eligible for the service. Finally, he argues that he was unaware that his dentist had been charging more than the Ministry rates, as he was never asked to pay the difference and his dentist chose not to claim it from him.

While the panel finds the appellant was in fact unaware of the limits set to dentists rates by Schedule C of the EAPWDR and the Schedule of Fees and Allowance – Dentist, the panel also finds the legislation does not provide the Ministry with authority to pay the appellant fees in excess of the Ministry allowance schedule. Therefore, the Ministry was reasonable in determining it could not pay for procedures at rates over and above those set out in the Schedule of Fees and Allowance – Dentist.

The panel finds that the Ministry's decision was a reasonable application of the applicable legislation in the circumstances of the appellant and confirms the decision.