

PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision under appeal is the ministry's reconsideration decision dated 19 May 2011 which held that the appellant is not eligible for coverage of the cost of dental services provided in January 2011. The ministry determined that it is not authorized to approve emergency dental coverage for services that are not for the immediate relief of pain and /or not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist as set out in the Employment and Assistance Regulation (EAR) Section 1 and Section 6.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance Regulation (EAR) Section 70
Employment and Assistance Regulation (EAR), Schedule C Sections 1 and 6
Schedule of Fee Allowances-Emergency Dental-Dentist

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).

An observer from the ministry was in attendance at the hearing. None of the parties objected to his attendance.

The evidence before the ministry at reconsideration was:

- The appellant is a recipient of Income Assistance and is eligible to receive emergency dental services under section 70 and Schedule C,s.6 of the EAR
- the appellant's request for reconsideration dated 04 May 2011
- Billings from the appellant's dentist to Pacific Blue Cross (PBC) the payer for dental services on behalf of the ministry
- a clarifying note from the dentist dated 19 May 2011

The ministry found the appellant had dental work done that did not qualify as *emergency dental services* and as such could not be paid under the provisions of the EAR. The ministry indicated the dentist is responsible for:

- determining if any services provided require emergency intervention and are necessary for the immediate relief of pain
- confirming the Income Assistance client's eligibility for service prior to providing the service, and
- when billing any such services, submitting a separate claim form which clearly indicates the services were provided for the immediate relief of pain or as an emergency.
- submitting the claim to Pacific Blue Cross for payment

Pacific Blue Cross makes a payment eligibility determination based on the EAR Schedule C ss.1 and 6 and the ministry Schedule of Fee Allowances-Emergency Dental-Dentist and makes payment to the Dentist if the service qualifies.

Pacific Blue Cross did not approve the billing information from the appellant's dentist.

The ministry determined the services billed by the appellant's dentist contained items that were covered under emergency dental services. The billings did not, however, indicate those services that might qualify were done for the immediate relief of pain. The clarifying note from the dentist indicated not all of the services provided were billed to PBC but two fillings were.

In his appeal submission the appellant stated he went to the dentist as directed by the ministry. He was experiencing pain with his teeth at the time. Further, he opted to have several fillings done at once to avoid the additional cost and pain associated with repeated freezings. The appellant reports he is a former intravenous drug user, with Hepatitis C, and has a strong aversion to needle use.

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue in this appeal is the reasonableness of the ministry's decision to deny coverage of the cost for dental services provided in January 2011 because it is not authorized to approve emergency dental coverage for services that are not for the immediate relief of pain and /or not set out in the Schedule of Fee Allowances-Emergency Dental-Dentist as set out in the Employment and Assistance Regulation (EAR) Section 1 and Section 6

The applicable legislation is:

EAR

70 (1) Subject to subsection (2), the minister may provide any health supplements set out in section 6 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

- (a) a recipient of income assistance under Schedule A,
- (b) a recipient of hardship assistance under Schedule D,
- (c) a person referred to in section 67 (1) (f) [general health supplements],
- (c.1) a person referred to in section 67 (1) (h), if

(i) the person is under age 65 and the family unit is receiving premium assistance under the Medicare Protection Act, or

(ii) the person is aged 65 or more and any person in the family unit is receiving the federal spouse's allowance or guaranteed income supplement, and

**EAR Schedule C
Definitions**

1 In this Schedule:

"dentist" means a dentist registered with the College of Dental Surgeons of British Columbia continued under the Health Professions Act; (B.C. Reg. 421/2008)

"denture services" means services and items that

- (a) if provided by a dentist

(i) are set out under fee numbers 51101 to 51302 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

ATTACH EXTRA PAGES IF NECESSARY

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

(b) if provided by a dentist

(i) are set out under fee numbers 31310 to 31331 in the Schedule of Fee Allowances - Denturist that is effective April 1, 2010 and is on file with the office of the deputy minister, and

(ii) are provided at the rate set out for the service or item in that Schedule;

"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 April 1, 2010 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) if provided by a denturist,

(i) is set out in the Schedule of Fee Allowances - Emergency Dental - Denturist, 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 in that Schedule;

The position of the ministry is that:

- the appellant is eligible to receive emergency dental services if the services he receives meet the criteria set out in the EAR and are for the immediate relief of pain.
- the appellant did receive dental services but those services were not identified by the dentist as being for the immediate relief of pain
- the service payer on behalf of the ministry, PBC, rejected the appellant's claim because it included dental services that are not authorized as emergency dental services as set out in the Schedule
- those services that could be authorized as emergency dental services were not identified by the dentist as being for the immediate relief of pain

The appellant argues he spoke with a ministry staff member before going to the dentist and he did tell the dentist his teeth were causing him pain. Further, dental work that might otherwise be spread over time was done to avoid the cost and pain of refreezing. The appellant understands some of the dental work done did not qualify as an emergency dental service but that some of it did and was done to relieve pain. As a patient he had no control over how the dental services were billed, including their classification or qualification.

The panel accepts that the appellant made a reasonable effort to establish he required emergency dental services for the immediate relief of pain. It also accepts, however, that the nature of the services he received were not identified by the dentist as being for the immediate relief of pain to Pacific Blue Cross in a manner that verified they were eligible to be paid as emergency dental services as defined in the EAR s.70, Schedule C s.1 and 6. Items 1 through 5 of the dentist's billing as set out by the ministry aren't included in Part C of the Schedule of Fee Allowance Dentist Emergency Dental_Dentist. Items 6 through 12 of the dentist's billing, again as set out by the ministry, which could qualify are not identified as being for the immediate relief of pain as required in Schedule C.

The panel finds given the evidence before the ministry at the time of its decision the decision to deny the appellant coverage for the dental services in January 2011 was reasonably supported by the evidence and confirms the decision.