

PART C – Decision under Appeal

The decision under appeal is the ministry's reconsideration decision of March 31st, 2011 wherein the ministry denied the appellant a crown for tooth number 23 as the appellant's request does not meet the eligibility criteria as set out in the EAPWD Regulation, Schedule C, section 4.1(2)(a); wherein, the ministry is of the opinion that the dental condition of tooth number 23 does not preclude the provision of restorative services set out under the Restorative Services section of the Schedule of Fee and Allowances-Dentist that would demonstrate the necessity of a crown.

PART D – Relevant Legislation

Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), section 63.1, Schedule C, sections 1 and 4.1
Schedule of Fee Allowances – Crown and Bridgework

PART E – Summary of Facts

The facts at the time of the reconsideration were:

- The appellant is a recipient of disability assistance;
- The appellant is eligible for consideration of dental treatment - crown and bridgework under section 63.1 EAPWDR;
- The appellant is eligible for the dental bridge requested on Standard Dental Claim of January 31, 2011;
- On Standard Dental Claim form dated January 31st, 2011, there is a notation from the dentist that the appellant has severe epilepsy with multiple seizures and therefore the dental bridge must be a fixed restoration.
- The ministry is satisfied that the appellant's request for bridgework meets the eligibility criteria set out in EAPWD regulation, Schedule C, subsection 4.1(2)(b).
- The requested bridgework is for tooth 24 and 25 and a crown for tooth 23. Tooth 24 is the pontic.
- The request for dental treatment from April 21, 2010 to January 31, 2011 covered the following procedures:

Tooth No.	Fee Code	Procedural Description	Dentist's Fee	Ministry's Fee
23	27211	Crown – Procelain/Ceramic/ Polymer Glass, Fused to Metal Base	635.60	624.20
23	23601	Non-Bonded Composite Core, in Conjunction with Crown	134.90	90.56
24	62501	Pontic – porcelain/Ceramic/ Polymer Glass, Fused to Metal Base	291.30	372.75
25	67211	Retainer - Procelain/Ceramic/ Polymer Glass, Fused to Metal Base	636.10	623.30
25	23601	Non-Bonded Composite Core, in Conjunction with Crown	134.90	90.56
TOTAL:			\$1,832.80	\$1,801.37

Initially the appellant had requested a Written Hearing which was changed on May 16th, 2011 to an Oral Hearing by the Tribunal. Prior to the Oral Hearing being set and after the reconsideration decision of March 31st, 2011, the appellant made a second submission to the EAAT which consisted of the following documents:

1. an x-ray showing tooth number 24 had been extracted;
2. Standard Dental Claim Form dated May 9th, 2011 with a notation, author unknown, that the Fee code for tooth 23 should be 67211 as this is part of the bridge. Please adjust 72711 was preauthorized for #23.
3. Letter dated March 31st, 2011 to the appellant from Ministry with a handwritten notation on same - "23 should be an abutment code 67211 – sorry for any problem this has caused. Please adjust". Fwd to EAAT; author of handwritten is unknown.
4. EAAT Notice of Appeal form dated April 13th, 2011 completed and signed in the name of appellant.

The panel reviewed the documents listed above and accepts the x-ray, listed as #1, as new evidence under section 22(4) EAA and as written testimony in support of the information and records that were before the ministry when the decision that is being appealed was made.

The Panel also reviewed documents #2 and #3. The panel finds documents #2 and #3 are not admissible as new evidence as the claim form dated May 9th, 2011 is a different document than the one dated January 31st, 2011 and refers to procedure code #67211 for tooth #23; and, the notation on the letter to the appellant dated March 31 refers to an abutment code #67211 which is also a new request. These requests have not been addressed by the ministry and the ministry has not made a reconsideration decision on them. Therefore, the panel has no jurisdiction to decide upon these matters.

The panel finds that document #4 is considered an informational document which is already contained within the Appeal Record.

The appellant is a recipient of disability assistance. On Dec 2nd, 2009 the appellant had tooth number 24 extracted. The appellant's dentist submitted the standard approval request form dated January 31st, 2011 to install a fixed bridge with a pontic for tooth number 24. On the claim form the dentist noted that the appellant suffers from severe epilepsy and has multiple seizures daily; a partial denture is contraindicated with patients with this health history; and a dental bridge would be the only reasonable option as it is a fixed restoration. The dentist had indicated a fee code of 27211 for tooth #23, fee code 62601 for tooth #24 and a fee code of 67211 for tooth #25. The fee code of 27211 is for a Crown and 67211 is the fee code for a retainer on a dental bridge. In the reconsideration decision the ministry acknowledged that the appellant met the eligibility criteria for bridgework as set out in the EAPWD Regulation, Schedule C, subsection 4.1(2)(b). The Standard Claim Dental form originally had indicated that tooth number 23 needed a Crown, fee code 27211, which was not recommended by Pacific Blue Cross (PBC) and subsequently denied by the ministry.

At the hearing the appellant stated they were not disputing the denial of the crown for tooth #23 that it was the fixed dental bridge that the appellant needed and not a crown. The appellant stated the fee code for 27211 for tooth 23 on Standard Dental Claim form dated January 31st, 2011 was wrong and should have been recorded as 67211. The appellant stated they have tried to rectify the situation but to date it has not been resolved.

At the hearing the ministry relied on the facts as stated in the reconsideration decision.

The panel makes the following finding of fact:

1. The appellant's dental practitioner requested pre-authorization for a crown on tooth #23 under fee code 27211 on the Standard Dental Claim form dated January 31st, 2011.
2. The ministry agreed the appellant met the eligibility criteria for a bridgework as set out in the EAPWD Regulation, Schedule C, subsection 4.1(2)(b).

PART F – Reasons for Panel Decision

The issue under appeal is the reasonableness of the ministry's reconsideration decision of March 31st, 2011 wherein the ministry denied the appellant a crown for tooth number 23 as the appellant's request does not meet the eligibility criteria as set out in the EAPWD Regulation, Schedule C, section 4.1(2)(a); wherein, the ministry is of the opinion that the dental condition of tooth number 23 does not preclude the provision of restorative services set out under the Restorative Services section of the Schedule of Fee and Allowances- Dentist that would demonstrate the necessity of a crown.

The legislation considered: EAPWDR -

General health supplements

62 (1) Subject to subsections (1.1) and (1.2), 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 is:

- (a) a recipient of disability assistance,

Crown and bridgework supplement

Section 63.1 (1) Subject to subsections (1.1) and (1.2), 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, if either the person or the person's spouse
 - (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), if the family unit is receiving premium assistance under the *Medicare Protection Act*, or
 - (e) a person whose family unit ceases to be eligible for disability assistance because of financial assistance provided through an agreement under section 12.3 of the *Child, Family and Community Service Act*, during the term of the agreement.
- (2) Repealed (B.C. Reg. 67/2010)

Schedule 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 April 1, 2010 and is on file with the deputy minister, (B.C. Reg. 315/2006) (B.C. Reg. 65/2010)
- (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
 - (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.

MINISTRY OF HOUSING AND SOCIAL DEVELOPMENT - Schedule of Fee Allowances – Dentist
Effective April 1, 2010

Crowns: (Note: Limited to one per tooth in a five-year period. Only full cast metal crowns will be considered on tooth numbers 6, 7 and 8.

27211 Crown, Porcelain/Ceramic/Polymer Glass, Fused to Metal Base

Retainers:

67211 Porcelain/Ceramic/Polymer Glass, Fused to Metal Base

Cores: (Note: Limited to one per tooth in a five-year period.)

23601 Non-Bonded Composite Core, in Conjunction with Crown

The appellant argued the proposed treatment plan was requesting pre-approval for a fixed dental bridge that would encompass tooth 23, 24 and 25. The appellant argued that tooth 23 and 25 are the abutment teeth or the anchors for tooth 24 (pontic) which was extracted in December 2009. The appellant argued he needs the dental bridge so that he can continue to chew food. The appellant argued that the fee code of 27211 on Standard Dental Claim form dated January 31st, 2011 for tooth 23 was the wrong code as this is for a crown and not a bridge. The appellant argued the fee code for tooth 23 should have been 67211, the same fee code as tooth 25. The appellant requested the panel to approve the new dental form dated May 9th, 2011 which indicates the proper fee codes for the bridgework.

The ministry argued that the appellant does not meet all the criteria set out in section 4.1 EAPWDR. The ministry agreed the appellant meets the eligibility criteria set out in Schedule C, section 4.1(2)(b)(i) for Crown and Bridgework but does not meet the criteria of Schedule C, section 4.1(2)(a) wherein the dental condition of tooth #23 precludes the provision of restorative services set out under the Restorative Services section of the Schedule of Fees and Allowances-Dentists. The ministry argued that the appellant's dental practitioner was requested by PBC to provide a description of the dental condition or a clinical explanation of tooth #23 which would demonstrate the necessity for a crown. The ministry argued the dentist intends to charge fees in excess of the rates set out in the Schedule of Fees and Allowances- Crown and Bridgework which is not permitted by section 4.1(1)(b) EAPWDR and therefore the ministry has no authority to approve the dental services.

The panel has no jurisdiction in making decision on a new issue - that the wrong fee code of 27211 appeared on the Standard Dental Claim dated January 31st, 2011 instead of fee code 67211 – that tooth #23 is part of a dental bridge between teeth 23, 24 and 25 as this matter has not been determined by the ministry. The jurisdiction of the panel is to review the reasonableness of the ministry's decision to deny a crown for tooth #23 as stated in the reconsideration decision of March 31st, 2011.

The panel finds the appellant must meet all criteria within Schedule C, section 4.1 EAPWDR to receive Crown and Bridgework. Schedule C, section 4.1(1) requires that the work be provided by dentist, that the dental service is provided at a rate in accordance with the Schedule of Fee Allowances-Drown and Bridgework; and the dental work service must be pre-authorized by the minister.

The panel finds that the Standard Dental Claim form dated January 31st, 2011 is requesting payment (pre-authorization) for a crown (Procelain/Ceramic /Polymer Glass, Fused Metal Base with Non-Bonded Composite Core, in conjunction with Crown) on tooth 23 under fee code 27211; a pontic for tooth 24 under code 62501; and a Retainer – (Procelain/Ceramic/Polymer Glass, Fused Metal Base with Non-Bonded Composite Core, in conjunction with Crown) under code 67211.

The Panel finds the fees quoted by the dental practitioner on Standard Dental Claim Form dated January 31st, 2011 for the Crown and Bridgework totals \$1832.80. The ministry's rate for this dental work in accordance with the Schedule of Fees – Crown and Bridgework totals \$1801.37. The panel finds that the ministry reasonably concluded that since the appellant's dental practitioner intended to charge fees in excess of the rates set out in Schedule of Fee Allowances – Crown and Bridgework that the ministry is not authorized to provide coverage for dental services that exceed the schedule of fees and therefore the ministry's decision to deny the appellant's request for Crown and Bridgework as outlined on Standard Dental Claim for dated January 31st, 2011 was reasonable.

The panel finds that in addition to the criteria in section 4.1(1) above, the appellant must also meet the criteria in section 4.1(2) which states that a health supplement may be paid under section 63.1 EAPWDR 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 restorative services and (b) that the person has a condition wherein he cannot have a removable prosthetic.

The panel finds that dental claim form dated January 31st, 2011 requests approval for a crown for tooth 23 under fee code 27211, a pontic for tooth 24 under fee code 62601 and a retainer for tooth 25 under fee code 67211. The panel finds there is no evidence from the dental practitioner to support that the dental condition of tooth 23 precludes the provision of the restorative services set out under the Restorative Services section of Schedule of Fee Allowances – Dentist nor did the dental practitioner provide a detailed clinical explanation to demonstrate the need for a crown for tooth 23. The panel finds that the ministry reasonable concluded that since the dental practitioner did not provide a description of the dental condition of tooth #23 or a detailed clinical explanation on why tooth #23 required a crown that the appellant failed to meet the legislated criteria set out in Schedule C, section 4.1(2)(a) and therefore the ministry's decision to deny the appellant's request for a crown for tooth #23 is reasonable.

The Panel finds the ministry's decision is reasonably supported by the evidence and therefore confirms the Ministry's decision pursuant to Section 24(1)(a) and Section 24(2)(a) of the Employment and Assistance Act.