

## PART C – Decision under Appeal

The reconsideration decision of July 29, 2011 denied the appellants' application for full coverage of dentist and denturist fees. In order to qualify for dental fees, applicants must be eligible for health supplements, as per section 63 of the Employment and Assistance for Persons with Disabilities Regulation (EAPWDR), and fees are limited by Schedule C. In order to qualify for Emergency dental and denture supplements beyond the benefit allowed in the 2 year period, a need must be identified by a dental practitioner and appellants must meet section 64 of the EAPWDR; fees are limited by Schedule C. The Ministry found that the appellant met section 63, and was eligible for health supplements. The Ministry found that the appellant did not meet the criteria for emergency dental or denturist fees or oral sedation as information was not provided by the dental practitioner.

The other issue in the reconsideration decision was fee maximums. The appellant applied for \$2538.20 in dental fees and \$1260.00 in denturist fees. As per section 4 of Schedule C the appellant was eligible for \$1000 in a two year period for dental and denturist fees. At the time of the application, the appellant had \$898.00 remaining in her basic dental services benefit.

## PART D – Relevant Legislation

EAPWDR Section 63 and 64  
EAPWDR, Schedule C, sections 1,4,5 and 6  
Schedule of Fee Allowances – Dentist and Denturist

## PART E – Summary of Facts

The following records were before the Ministry when the reconsideration decision was made:

- a note dated received August 25, 2011 written by the appellant concerning the appeal
- a note dated received July 13, 2011; written by the appellant concerning the reconsideration application of July 15, 2011
- an account statement for a dental exam dated June 24, 2011 from the appellant's dentist
- a treatment plan dated June 24, 2011 from the appellant's dentist for \$2538.20
- a treatment plan dated received July 13, 2011 from the appellant's dentist for \$1260.00
- a letter from the appellant's doctor dated June 21, 2011
- a dental benefit eligibility from Blue Cross dated July 28, 2011
- the Request for Reconsideration dated July 15, 2011

The evidence before the Ministry at reconsideration was as follows. The appellant applied for \$2538.20 in dental fees and \$1260.00 in denturist fees. Her medical practitioner, in his letter dated June 21, 2011 stated, 'this patient has exceedingly poor dental health and this is most certainly affecting her general medical health, including high risk for infection, abscesses and complications. She also suffers from persistent headaches likely related to her dental status. I strongly recommend that she have full mouth restoration or extraction'. As per section 4 of Schedule C the appellant was eligible for \$1000 in a two year period for dental and denturist fees. At the time of the application, the appellant had \$898.00 remaining in her basic dental services benefit. Information had not been provided by the dentist to confirm that the dental procedure was an 'emergency dental service' as defined in Schedule C as 'a dental service necessary for the immediate relief of pain'. As per Schedule of Fee Allowance of Schedule C, the appellant had to meet the following criteria to qualify for oral sedation fees: if the appellant is under 19 years of age and it is necessary for the dental procedure to be performed safely; or if the appellant has a severe mental or physical disability which require the dentist to use sedation or anesthetic. Neither the medical practitioner, dentist or denturist provided any evidence that the appellant had a severe mental or physical condition which would require anesthetic, and the appellant is over 19 years of age.

The appellant stated in her request for reconsideration that her dental issues were caused by her medications – Paxil and Clomimaprime had made her teeth 'like chalk'. Her dental issues were causing her migraines (for several months), abscesses, infections, stomach problems and nerve pain. She stated that her procedures were a legitimate expense and needed to restore her health. In her notice of appeal she noted that the procedure was 'not done by choice, this was done to deal with ongoing health issues' and that 'in addition to ear aches and migraines daily. My dental health was making me sick daily'.

At the hearing the appellant stated that the necessary dental procedures and dentures had been completed. She noted that \$1655.63 was not covered by MSP or Blue Cross and she borrowed money from her elderly mother for the surgery; which she was advised she needed the procedure within a week for her health. She stated that she had been advised by the Ministry that if the procedure was for an emergency it would be covered; and had the procedure done with this expectation. She said she was also unaware that sedation would not be covered. The appellant argued that she doesn't have the financial resources to pay her mother back.

At the hearing the Ministry argued that the appellant is held to a maximum of \$1000 for every 2 years, and that the appellant had \$898 available to her at the time of application. The Ministry was not aware the procedure had been completed at the time of the hearing, and noted that they do not have access to this information or information about what benefit was paid. The Ministry explained that this amount was likely exceeded in her case as the surgery was needed on an emergency basis and to relieve pain – the dental fees of \$1443.57 and denturist fees of \$699 had been paid at the time of the hearing, according to the appellant. The Ministry explained that they are legislated to only pay a maximum amount for dental procedures, as laid out in Schedule C, and that her maximum benefit was paid already.

## PART F – Reasons for Panel Decision

The reconsideration decision denied the appellants' application for full coverage of dentist and denturist fees. At the time of reconsideration, the dental surgery had not taken place, and the issue was whether the Ministry made a reasonable decision in denying the appellant's application for full dental and denturist fees. At the time, there was not sufficient evidence to support fees above \$898 (the allowable Blue Cross benefit for the 2 year period) to be exceeded. In addition, the appellant did not meet the Ministry criteria for oral sedation to be covered.

### Dental supplement

**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],
- (b) section 62 (1) (b) (i), (d.1), (d.3) or (f), 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 the federal guaranteed income supplement,
- (c) section 62 (1) (b) (ii), or (d.2), (B.C. Reg. 67/2010)
- (c.1) section 62 (1) (c), or
- (d) section 62 (1) (g).

(2) A person eligible to receive a health supplement under section 62 (1) (b) (ii) or (d.2) may receive the supplement

- (a) while any person in the family unit is
  - (i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or
  - (ii) aged 65 or more and receiving the federal spouse's allowance or the federal guaranteed income supplement, and
- (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

(3) A person eligible to receive a health supplement under section 62 (1) (c) may receive the supplement

- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
- (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

(4) A person who was eligible to receive a health supplement under subsection (1) (b) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

### Emergency dental and denture 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

- (a) section 62 (1) (a), (b) (iii), (d) or (e) [general health supplements],
- (b) section 62 (1) (b) (i), (d.1), (d.3) or (f), 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 the federal guaranteed income supplement,
- (c) section 62 (1) (b) (ii) or (d.2),
- (c.1) section 62 (1) (c) or
- (d) section 62 (1) (g).

(2) A person eligible to receive a health supplement under section 62 (1) (b) (ii) or (d.2), may receive the supplement

- (a) while any person in the family unit is
  - (i) under age 65 and receiving a pension or other payment under the Canada Pension Plan, or
  - (ii) aged 65 or more and receiving the federal spouse's allowance or the federal guaranteed income supplement, and
- (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

(3) A person eligible to receive a health supplement under section 62 (1) (c) may receive the supplement

- (a) while any person in the family unit is receiving the federal spouse's allowance or the federal guaranteed income supplement, and
- (b) for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

(4) A person who was eligible to receive a health supplement under subsection (1) (b) but ceases to be eligible for medical services only may continue to receive the supplement for a maximum of one year from the date on which the family unit ceased to be eligible for medical services only.

## Schedule C

### Dental supplements

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

- (a) in respect of a dependent child, a 2 year period beginning on January 1, 2009, and on each subsequent January 1 in an odd numbered year, and
- (b) in respect of 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.

(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,
- (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 dependant 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) 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) 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.

### 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.

## Schedule of Fee Allowances – Dentist

### MISCELLANEOUS

92215

#### Note:

General Anaesthetic and Intravenous sedation (in office) per hour or portion thereof . Treatment start and finish times must accompany your claim. Pre and postoperative observation periods are not included.

GA or IV sedation (in office) will only be considered for coverage for children under 19 years of age where necessary for the safe performance of dental treatment; and children and adults with severe mental or physical disabilities that prevents a dentist from providing necessary dental treatment without the administration of an anaesthetic or sedation.

At the time of the hearing, the surgery had taken place and the benefit of \$898 had been exceeded – as the dental fees of \$1443.57 and denturist fees of \$699 had been paid. The remaining issue was whether the Ministry could exceed legislated maximums set out in Schedule C, and whether oral sedation would be covered.

The Ministry argued that there are legislated maximums set out in Schedule C, which had already been paid to the dentist and denturist. The Ministry indicated that they were not aware the procedure had taken place or that the maximums had already been paid. The Ministry determined that the appellant did not meet the criteria for oral sedation to be covered; since the appellant did not have evidence, from a physician or dentist, indicating that a physical or mental disability existed that would require sedation.

The appellant argued that the dental surgery and dentures were medically necessary and that she could not afford to repay the money she borrowed to have the procedure done.

The panel finds that the Ministry's decision at the time of reconsideration was reasonable – that there was not sufficient evidence from the appellant's dentist to indicate that it was an 'emergency' dental procedure. The appellant's physician, in his letter dated June 21, 2011, indicated the procedures were needed, as the appellant "suffers from headaches likely related to her dental status" and is at "high risk for infections, abscess and complications". The panel finds that at the time of the hearing the appellant's dental surgery and denturist work had been completed and that Ministry maximums had been paid. The panel finds that there is no evidence to indicate that the appellant met the criteria for oral sedation. The panel finds that the Ministry's decisions in this matter have been reasonably supported by the evidence and confirms the decision.