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PART C – DECISION UNDER APPEAL

(State the reconsideration decision)

The decision under appeal is the Ministry's reconsideration decision dated November 14, 2008 which held that the appellant does not meet the eligibility criteria for crown and bridgework procedures as set out in the Employment and Assistance for Persons with Disabilities (EAPWD) Regulation Schedule C, Sections 4.1(1)(c) and 4.1(2)(b)(iii). The Ministry determined that the appellant's dentist did not confirm that the appellant will have an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic. Further, the rates requested by her dentist are above the rates set out in the ministry's Schedule of Fee Allowances for Crown and Bridgework.

PART D – RELEVANT LEGISLATION

(State the relevant Legislation considered)

Employment and Assistance for Persons with Disabilities Regulation Section 63.1
Employment and Assistance for Persons with Disabilities Regulation Schedule C, Sections 1 and 4.1
Schedule of Fee Allowances – Crown and Bridgework

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).

The evidence before the Ministry consisted of a telephone log between the ministry and the appellant's dentist dated November 13, 2008, Blue Cross dental claims from January 1, 2007 to November 12, 2008, a letter and quote for services from the appellant's dentist dated November 4, 2008, letters from Blue Cross to the appellant's dentist dated October 17, 2008 and September 2, 2008, and a dental claim from a second dentist dated September 15, 2008.

A dental claim was submitted to the ministry from the appellant's dentist dated October 9, 2008 in the amount of \$2,359.27 for crown and bridgework. A subsequent letter was also sent by the appellant's dentist to the Ministry dated November 4, 2008 where he states that the appellant requires crown and bridgework as her tooth can no longer be cemented back in place. He further states that the appellant is prone to infection and the use of a Partial Upper Denture could cause irritation of the soft tissue resulting in acute and or chronic infection.

On December 2, 2008 the ministry received notification of the date and time of the hearing. The ministry was not represented at the hearing. The reconsideration decision denied the appellant's claim for crown and bridgework because it found the information provided by the appellant's dentist did not meet the legislative criteria for granting the requested dental work. The rate submitted by the appellant's claim exceeds the rate set by the ministry's Schedule of Fee Allowances for Crown and Bridgework and the dentist did not provide information that the appellant would likely have an allergic reaction or intolerance to the composition or materials used in a removable prosthetic. The appellant's dentist also does not specify another health condition that would preclude the use of a removable prosthetic.

The appellant's advocate stated that the appellant's dentist had issues with the telephone log dated November 13, 2008 used by the ministry to assist them in making their decision. The advocate claimed the dentist felt the appellant would indeed have a reaction to a removable prosthetic because she has developed severe infections with dental work in the past. The advocate stated that the dentist is not able to comment on other health issues or impairments the appellant has, he is only familiar with her dental requirements.

The panel accepted the new evidence presented at the hearing from the appellant and her advocate that the appellant suffers from severe arthritis. The appellant stated that she has had five surgeries in an attempt to replace some of her finger joints with artificial joints. The surgeries have been unsuccessful and she is unable to bend her little finger on both hands. The appellant claims it would be impossible for her to maneuver a prosthetic as she has very little mobility in her hands because of her arthritis and failed surgeries.

ATTACH EXTRA PAGES IF NECESSARY

PART F – REASONS FOR PANEL DECISION

(State the reasons for the panel decision)

The issue on this appeal is whether the Ministry reasonably concluded that the appellant did not meet the criteria for the approval of crown and bridgework services.

The EAPWD Regulation Schedule C, Section 4.1(1)(c) –requires that dental services for crown and bridgework be provided at the rate set out in that Schedule of Fee Allowances. Section 4.1(2)(b) states in part that a health supplement may be paid under section 63.1 of this regulation for crown and bridgework if 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 them 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 and (iv) the person has a mental condition that makes it impossible for them to assume responsibility for a removable prosthetic.

The ministry denied the claim as the rate quoted by the appellant's dentist exceeds the rate set out in the Schedule of Fee Allowances. They also denied her claim because her dentist did not confirm that the appellant would have an allergic reaction or other intolerance to the composition or materials used in a removable prosthetic.

The advocate stated that the appellant's dentist told the ministry that the appellant would not be suitable for a removable prosthetic as she has too much soft tissue damage and irritation surrounding the site. Further, the dentist stated that the appellant would experience acute and chronic infection at the site as she has experienced this type of infection after previous cementing. The appellant also told the panel that she has severe arthritis and is still recovering from five surgeries in her fingers where doctors tried to replace her joints with artificial joints.

The panel finds that the appellant meets the criteria under the EAPWD Regulation Schedule C, Section 4.1(2)(b). The appellant's dentist stated in his November 4, 2008 letter to the Ministry that the appellant would not be a suitable candidate for a removable prosthetic. The appellant is prone to infection and a removable prosthetic could cause irritation of the soft tissue and result in acute and or chronic infection. The panel refers this decision back to the Ministry as to amount.

The Panel finds that the Ministry's reconsideration decision was not reasonably supported by the evidence under Section 24(1)(a) of the Employment and Assistance (EA) Act and rescinds the decision under Section 24(2)(b) of the (EA) Act.

ATTACH EXTRA PAGES IF NECESSARY