

Part C – Decision Under Appeal

The decision under appeal is the Ministry of Social Development and Poverty Reduction's ("Ministry") Reconsideration Decision dated October 27, 2025, in which the Ministry denied coverage for an orthodontic treatment plan for the Appellant's child under the Employment and Assistance for Persons with Disabilities Regulation ("Regulation") including the Schedules of Fee Allowances for dental services. The Ministry found that:

- The Appellant was not eligible for coverage for an orthodontic supplement (fee code 80002) because section 65 of the Regulation limits orthodontic supplements to a diagnosis of severe dysplasia with jaw misalignment by two or more standard deviations.
- The Appellant was not eligible for coverage for the orthodontic treatment plan as a basic dental service or emergency dental service because the fee code for orthodontic treatment (80002) is not set out in the Schedules of Fee Allowances for basic or emergency dental services or any of the other fee schedules for dental services.
- The Appellant was not eligible for coverage of the orthodontic treatment plan as a life-threatening health need under section 69 of the Regulation because that section applies to medical transportation and specific medical equipment/supplies and does not cover orthodontic treatment.
- The Appellant was not eligible for coverage of the orthodontic treatment plan as a crisis supplement under section 57(3) of the Regulation because that section says that the Minister may not provide a crisis supplement for the health services described in Schedule C of the Regulation, including dental/orthodontic treatment.

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Part D – Relevant Legislation

The Ministry based the Reconsideration Decision on the following legislation:

Employment and Assistance for Persons with Disabilities Regulation (“Regulation”) - sections 57, 62, 63, 63.1, 64, 65, and 69, and sections 1, 4, 4.1, and 5 of Schedule C

Dental Supplement - Dentist including *Schedule of Fee Allowances* – Dentist, Emergency Dental – Dentist, and Crown and Bridgework

The full text of the legislation is in the Schedule at the end of the decision.

Part E – Summary of Facts

The hearing was held on December 23, 2025, as a written hearing by agreement of the parties.

Evidence before the Ministry at Reconsideration

The evidence and documentation at the time of the reconsideration consisted of:

1. Information from the Ministry's record of decision indicating that:

- On July 16, 2025, coverage for an orthodontic treatment plan for the Appellant's child (fee code 80002) was submitted to Pacific Blue Cross via predetermination. The Ministry noted that in the case of dental supplements, its powers, duties, and functions are delegated to Pacific Blue Cross.
- On August 5, 2025, the Ministry reviewed the Appellant's claims history and denied coverage for the orthodontic treatment plan because Pacific Blue Cross determined that no severe skeletal dysplasia with jaw misalignment by two or more standard deviations was observed in the child's orthodontic assessment.
- On August 5, 2025, the Appellant attended the Ministry office, requested a reconsideration, and advised that she has no resources to pay for the dental work. The Appellant submitted forms and a letter from her child's orthodontist describing the child's dental conditions that will have long-term impacts for chewing, airway function, dental wear, and other issues if not treated with a comprehensive orthodontic plan.
- On August 6, 2025, the Ministry received an assessment from Pacific Blue Cross's contracted orthodontist, indicating that the request for coverage for orthodontic treatment did not meet the legislative requirements as no skeletal dysplasia was observed.
- On September 6, 2025, the Ministry received additional information in support of the reconsideration, including medical findings by the child's certified orthodontist that indicated timely treatment was necessary to prevent oral health complications including possible tooth loss, and worsening jaw pain.

2. A Request for Reconsideration, signed by the Appellant on August 13, 2025, with a hand-written submission summarizing the findings of the child's orthodontist which included overjet, severe malocclusion, and difficulty with brushing and flossing. The Appellant said that her child's speech is impacted because the misaligned teeth make certain sounds difficult to pronounce. The Appellant said that her child experiences jaw and facial pain and sometimes gets headaches and oral injuries from chewing.

The Appellant described her financial constraints as a recipient of disability assistance and summarized the impacts on her child's mental health and self-esteem. The Appellant said that her child feels anxious about returning to school, avoids smiling and speaking in class, and wants home-schooling to escape bullying.

3. A Ministry form (Contracted Orthodontist's Assessment and Comments) signed by a contracted orthodontist on July 14, 2025. The form indicates a treatment plan fee of \$8,980 for thirty months of treatment. The contracted orthodontist checked "no" the patient does not meet the legislated criteria in section 65 of the Regulation and added a comment, "no skeletal dysplasia."

4. A pre-authorization form signed by the child's orthodontist on June 11, 2025. Under "Description of Condition" the orthodontist indicated that the patient has "Class 1 malocclusion characterized by a 10-to-11-millimeter overjet, severe upper and mild lower crowding." The estimated total fee is \$8,980.

5. A Pacific Blue Cross Orthodontia Request Form signed by the child's orthodontist on June 11, 2025. The orthodontist described the overjet of 10 to 11 millimeters, a 60 percent overbite, and severe overcrowding of upper teeth. The orthodontist wrote that "severe class two occlusion with ectopic #23 will have long-term implications for chewing, fluency, and potential gastrointestinal sequelae (acid reflux). And retrognathic mandible (severe overjet) will have implications for airway, sleep apnea and bruxism with excessive dental wear."

6. A letter from the child's orthodontist with attached x-rays/images of the child's teeth, skull, and jaw. The letter, dated June 11, 2025, indicates that the chief concern is ectopic tooth #23, and overcrowding. The letter notes other tooth numbers that are impacted, ectopic, or missing, as well as the overjet and severe maxillary crowding. The orthodontist recommended a comprehensive treatment approach over the course of thirty months that includes full braces, possible extraction of two teeth, interproximal reduction and elastics, and post-treatment upper and lower retainers. The orthodontist noted the long-term implications for chewing and excessive tooth wear, as well as other issues described in the Pacific Blue Cross Orthodontia Request Form.

Additional Information Submitted after the Reconsideration Decision

Neither party submitted new evidence requiring an admissibility decision by the Panel under section 22(4) of the *Employment and Assistance Act*. The Notice of Appeal, signed by

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the Appellant on November 6, 2025, includes a typed statement in which the Appellant states her argument. In an email to the Tribunal dated December 16, 2025, the Ministry said that "as the Appellant has not made a submission, the Ministry will rely on the reconsideration summary provided in the Record of Ministry Decision."

Part F – Reasons for Panel Decision

The issue on appeal is whether the Ministry's decision that denied coverage for an orthodontic treatment plan for the Appellant's child under the Employment and Assistance for Persons with Disabilities Regulation, is reasonably supported by the evidence, or a reasonable application of the legislation in the circumstances of the Appellant. Was the Ministry reasonable to conclude that?:

- The Appellant was not eligible for coverage for an orthodontic supplement (fee code 80002) because section 65 of the Regulation limits orthodontic supplements to a diagnosis of severe dysplasia with jaw misalignment by two or more standard deviations.
- The Appellant was not eligible for coverage for the orthodontic treatment plan as a basic dental service or emergency dental service because the fee code for orthodontic treatment (80002) is not set out in the Schedules of Fee Allowances for basic or emergency dental services, or any other fee schedule for dental services.
- The Appellant was not eligible for coverage of the orthodontic treatment plan as a life-threatening health need under section 69 of the Regulation because that section applies to medical transportation and specific medical equipment/supplies and does not cover orthodontic treatment.
- The Appellant was not eligible for coverage of the orthodontic treatment plan as a crisis supplement under section 57(3) of the Regulation because that section says that the Minister may not provide a crisis supplement for the health services described in Schedule C of the Regulation, including dental/orthodontic treatment.

Position of the Parties

Appellant's Position

The Appellant's position is that braces are medically necessary for proper alignment of her child's teeth, and not cosmetic. The Appellant submits that her child's dental condition is affecting their bite, comfort, and long-term oral health.

In the Request for Reconsideration, the Appellant said they understand that orthodontic services are generally approved for "severe skeletal misalignment" and are necessary to prevent "permanent oral health complications" as described by her child's orthodontist. The Appellant submits that her child's physical and mental health are compromised without treatment being approved by the Ministry.

The Appellant said that her child's case involves "severe skeletal dysplasia/jaw misalignment" which causes "significant functional impairment, pain, chewing difficulties,

speech issues, and hygiene challenges." The Appellant said that without treatment, her child is withdrawing from opportunities that would help them succeed, and their overall quality of life is suffering.

Ministry's Position

The Ministry's position is that the Appellant is not eligible for coverage of an orthodontic treatment plan under the Regulation because the child's condition is not described by orthodontists as "severe skeletal dysplasia with jaw misalignment by two or more standard deviations." The Ministry's position is that the Appellant is also not eligible for orthodontic coverage as a basic or emergency dental service, life-threatening health need, or crisis supplement under the legislation.

The Ministry acknowledged that the child's dental condition requires orthodontic treatment and may otherwise worsen but said that it must rely on the assessments by orthodontic experts to determine if the legislative criteria are met. The Ministry explained that skeletal dysplasia is a medical term for about four hundred conditions, genetic in nature, that affect bone development, neurological function and cartilage growth. The Ministry explained that children born with skeletal dysplasia will have abnormal differences in their skull or other body parts and may be very short in stature. The Ministry noted there was no new information from an orthodontist to confirm "severe skeletal dysplasia with jaw misalignment by two or more standard deviations."

Analysis and Panel's Decision

Orthodontic Treatment Plan as an Orthodontic Supplement - Employment and Assistance for Persons with Disabilities Regulation Section 65

Section 65(1) of the Regulation allows the Minister to provide an orthodontic supplement for a child in the family unit under nineteen years of age if certain requirements are met. Specifically, section 65(2) of the Regulation requires the child's family unit to have no resources available to cover the cost of the treatment and the child must have severe skeletal dysplasia with jaw misalignment by two or more standard deviations. Prior authorization from the Minister must also be obtained.

The Ministry accepts that the Appellant's child is under nineteen, and that the Appellant has no resources available to pay for orthodontic treatment as a recipient of disability assistance. However, the Appellant did not obtain prior authorization from the Ministry to

for orthodontic work because the Ministry found that the child does not have severe skeletal dysplasia as required by subsection 65(2)(a) of the Regulation.

The Panel finds that the Ministry's decision is a reasonable application of the legislation in the circumstances of the Appellant because there was no evidence from an orthodontic specialist confirming severe skeletal dysplasia with jaw misalignment by two or more standard deviations. The Appellant said in the Request for Reconsideration that her child's case involves "severe skeletal dysplasia/jaw misalignment" but she provided no information from an orthodontist to confirm severe skeletal dysplasia.

The record contains an assessment by two orthodontists (the child's orthodontist and the Pacific Blue Cross consultant). Neither dentist confirmed that the child has severe skeletal dysplasia with jaw misalignment by two or more standard deviations. The child's orthodontist diagnosed class 1 malocclusion, characterized by overjet, severe upper crowding, and tooth features such as ectopic teeth. There was no indication of skeletal dysplasia.

The consulting orthodontist provided very strong evidence against a finding of severe skeletal dysplasia. On the Ministry form (Contracted Orthodontist's Assessment and Comments), the consultant check marked that the patient does not meet the legislative requirement for severe skeletal dysplasia with jaw misalignment by two or more standard deviations. They also wrote on the form, "no skeletal dysplasia."

The Appellant provided no evidence regarding skeletal dysplasia other than her self-report which is not a professional opinion. The Ministry was therefore reasonable to rely on the information from the two orthodontists to find that the requirement for severe dysplasia under subsection 65(2)(a) of the Regulation was not met.

Orthodontic Treatment Plan (fee code 80002) as a Basic Dental Service or Emergency Dental service – Dental Supplement - Dentist

According to the Ministry's Dental Supplement – Dentist fee guide, the Ministry is only authorized to cover dental services set out in the Schedules of Fee Allowances. The Appellant's child requires orthodontic treatment under fee code 80002 as indicated on the Pacific Blue Cross predetermination form. As noted by the Ministry, this fee code is not set out in the fee schedules for basic dental services, emergency dental services, or any of the other fee schedules for dental work.

The Panel therefore finds that the Ministry was reasonable to conclude that it cannot cover the cost of orthodontic work under fee code 80002. The Panel considered whether any other fee codes in the Schedules of Fee Allowances cover orthodontic work but could find none.

Orthodontic Treatment Plan as a life-threatening Health Need - Employment and Assistance for Persons with Disabilities Regulation Section 69

Section 69 of the Regulation allows the Ministry to cover the cost of some medical services listed in Schedule C of the Regulation including medical transportation and specific medical equipment and supplies, if the person faces a direct and imminent threat to life if they cannot obtain the service and they have no resources to pay for it. Unfortunately, dental services are not covered under section 69 of the Regulation. The Panel therefore finds that the Ministry was reasonable to deny coverage for the orthodontic treatment plan under this section of the Regulation.

Orthodontic Treatment Plan as a Crisis Supplement - Employment and Assistance for Persons with Disabilities Regulation Section 57(3)

Section 57(3) of the Regulation allows the Ministry to provide a crisis supplement to pay for certain items set out in Schedule C of the Regulation when specific circumstances are met. Unfortunately, this section of the legislation does not give the Ministry the authority to provide a crisis supplement for “health care services” which include services provided by a dentist or orthodontist. The Panel therefore finds that the Ministry was reasonable to deny a crisis supplement for orthodontic treatment.

Conclusion

For the above reasons, the Panel confirms the Reconsideration Decision as a reasonable application of the legislation. The Appellant is not successful with her appeal.

The Panel is sympathetic to the Appellant’s case as it is clear from the information provided that her child requires an orthodontic treatment plan for their overall health and well-being. However, both the Ministry and the Panel have to follow what the legislation says and cannot change the Regulation or fee schedules. Unfortunately, the Ministry had no discretion under the Regulation or fee schedules to cover the cost of the orthodontic treatment.

Schedule of Legislation

Employment and Assistance for Persons with Disabilities Regulation

Crisis supplement

57(3) A crisis supplement may not be provided for the purpose of obtaining

- (a) a supplement described in Schedule C, or
- (b) any other health care goods or services.

General health supplements

62 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) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Dental supplements

63 The minister may provide any health supplement set out in section 4 [dental supplements] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, if the health supplement is provided to or for a person in the family unit who is under 19 years of age, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Crown and bridgework supplement

63.1 The minister may provide a crown and bridgework supplement under section 4.1 of Schedule C to or for

- (a) a family unit in receipt of disability assistance, if the supplement is provided to or for a person in the family unit who is a person with disabilities, or
- (b) a family unit, if the supplement is provided to or for a person in the family unit who
 - (i) is a continued person, and
 - (ii) was, on the person's continuation date, a person with disabilities.

Emergency dental and denture supplement

64 The minister may provide any health supplement set out in section 5 [emergency dental supplements] of Schedule C to or for

- (a) a family unit in receipt of disability assistance,
- (b) a family unit in receipt of hardship assistance, or
- (c) a family unit, if the health supplement is provided to or for a person in the family unit who is a continued person.

Orthodontic supplement

65 (1) Subject to subsection (2), the minister may provide orthodontic supplements to or for

- (a) a family unit in receipt of disability assistance, if the orthodontic supplements are provided to or for a person in the family unit who
 - (i) under 19 years of age, or
 - (ii) a person with disabilities, or
- (b) a family unit, if the orthodontic supplements are provided to or for a person in the family unit who

- (i) is a continued person, and
- (ii) meets any of the following criteria:
 - (A) the person is under 19 years of age;
 - (B) the person was, on the person's continuation date, a person with disabilities.

(2) For a person referred to in subsection (1) to be eligible for orthodontic supplements, the person's family unit must have no resources available to cover the cost of the orthodontic supplements and the person must

- (a) have severe skeletal dysplasia with jaw misalignment by 2 or more standard deviations, and
- (b) obtain prior authorization from the minister for the orthodontic supplements.

Health supplement for persons facing direct and imminent life threatening health need

69 (1) The minister may provide to a family unit any health supplement set out in sections 2 (1) (a) and (f) [general health supplements] and 3 [medical equipment and devices] of Schedule C, if the health supplement is provided to or for a person in the family unit who is otherwise not eligible for the health supplement under this regulation, and if the minister is satisfied that

- (a) the person faces a direct and imminent life threatening need and there are no resources available to the person's family unit with which to meet that need,
- (b) the health supplement is necessary to meet that need,
- (c) the adjusted net income of any person in the family unit, other than a dependent child, does not exceed the amount set out in section 11 (3) of the Medical and Health Care Services Regulation, and,
- (d) the requirements specified in the following provisions of Schedule C, as applicable, are met:

- (i) paragraph (a) or (f) of section 2 (1);
- (ii) sections 3 to 3.12, other than paragraph (a) of section 3 (1).

(2) For the purposes of subsection (1) (c),

- (a) "adjusted net income" has the same meaning as in section 7.6 of the Medical and Health Care Services Regulation, and
- (b) a reference in section 7.6 of the Medical and Health Care Services Regulation to an "eligible person" is to be read as a reference to a person in the family unit, other than a dependent child.

Schedule C

Definitions

1 In this Schedule:

"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 September 1, 2017 and is published on the website of the ministry of the minister,
 - (ii) is provided at the rate set out in that Schedule for the service and the category of person receiving the service,
- (b) if provided by a denturist,
 - (i) is set out in the Schedule of Fee Allowances — Denturist that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
 - (ii) is provided at the rate set out in that Schedule for the service and the category of person receiving the service, and
- (c) if provided by a dental hygienist,

- (i) is set out in the Schedule of Fee Allowances — Dental Hygienist that is effective September 1, 2017 and is published on the website of the ministry of the minister, and
- (ii) is provided at the rate set out in that Schedule for the service and the category of person receiving the service;

Dental supplements

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

- (a) in respect of a person under 19 years of age, a 2 year period beginning on January 1, 2017, 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) \$2 000 each period, if provided to a person under 19 years of age, and
- (b) \$1 000 each period, if provided to a person not referred to in paragraph (a).

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) that is set out in the Schedule of Fee Allowances — Crown and Bridgework, that is effective April 1, 2010 and is published on the website of the ministry of the minister,
- (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, and
- (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 the person 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 the person to assume responsibility for a removable prosthetic.

(3) The minister must also be satisfied that a health supplement for crown and bridgework will be adequate to correct the dental condition.

(4) A health supplement for crown and bridgework may not be provided in respect of the same tooth more than once in any period of 60 calendar months.

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.

Dental Supplement – Dentist (*lists fee codes that the Ministry may cover where eligibility requirements are met*).

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Part G – Order

The panel decision is: (Check one) **Unanimous** **By Majority**

The Panel **Confirms the Ministry Decision** **Rescinds the Ministry Decision**

If the ministry decision is rescinded, is the panel decision referred back to the Minister for a decision as to amount? Yes No

Legislative Authority for the Decision:

Employment and Assistance Act

Section 24(1)(a) or Section 24(1)(b)

Section 24(2)(a) or Section 24(2)(b)

Part H – Signatures

Print Name

Margaret Koren

Signature of Chair

Date (Year/Month/Day)

2026/01/03

Print Name

Karla Jarvis

Signature of Member

Date (Year/Month/Day)

2026/01/05

Print Name

Susanne Dahlin

Signature of Member

Date (Year/Month/Day)

2026/01/05