



The reasons for judgment of the Court were delivered orally by:

**ROSCOE, J.A.:**

This is an appeal from a decision of Hall, J., in Chambers, who granted an order in the nature of *certiorari* quashing a decision of the Social Assistance Appeal Board and declaring that the City's social assistance policy respecting dental services was contrary to and inconsistent with the **Social Assistance Act**, R.S.N.S. 1989, c. 432 and the Municipal Assistance Regulations.

The policy in issue is No. 1.4.4 effective February 1, 1992, which is as follows:

1.4.4.1 EMERGENCY DENTAL TREATMENT

Effective  
01/02/92

As previously stated, emergency dental treatment is defined as the:

1. relief of immediate pain
2. control of prolonged bleeding
3. treatment of swollen tissue
4. repairs to broken dentures

Where a recipient of M.S.A. for the first 3 months identifies one of the above criteria, a Dental Claim Form is to be issued under the supervisor's authority. The client then presents the form to the dentist who may proceed with Emergency treatment urgently required up to a maximum of \$75.00 in accordance with the approved fee schedule and submits this form for payment.

1.4.4.2 SPECIFIC DENTAL SERVICES

Effective  
01/02/92

Where a recipient has been on M.S.A. for more than three months (or in receipt of another income program for the same period) and where the dentist has identified that emergency treatment up to \$75.00 was not sufficient to alleviate the dental situation which precipitated the request, a second Dental Claim Form may be issued.

The dentist is to complete this form outlining the specific treatment recommended **in order of priority** and the estimated cost. The form is then to be submitted for prior approval. [Emphasis in original.]

The total amount of assistance available to an eligible Social Assistance recipient in any consecutive 12 month period shall not exceed \$400.00.

The relevant sections of the **Social Assistance Act** are as follows:

4 (d) "person in need" means a person who, by reason of adverse conditions, requires assistance in the form of money, goods or services;

...

9 (1) Subject to this Act and the regulations the social services committee shall furnish the assistance to all persons in need, as defined by the social services committee, who reside in the municipal unit.

...

18 The Governor in Council may make regulations

(a) prescribing standards for assistance to be granted by social services committees to persons in need; ...

The Regulations made pursuant to s. 18 of the **Act**, provide as follows:

1 In these Regulations

(e) "assistance" means the provision of money, goods or services to a person in need, including

...

(iii) health care services: reasonable medical, surgical, obstetrical, dental, optical and nursing services which are not covered under the Hospital Insurance Plan or under the Medical Services Insurance Plan.

...

4 (1) Assistance shall be provided on the budget deficit system whereby a person's financial needs are calculated pursuant to these Regulations and the Municipal Social Services policy as approved pursuant to these Regulations. Where the needs exceed the income, assistance shall be granted in the amount by which the needs are in excess of the income.

The issues before the Chambers judge were whether the City's dental policy conformed with its obligation to provide "reasonable dental services" and, if not, whether the Social Assistance Appeal Board's decision which relied on the policy to dismiss Ms. Thomas' appeal should be quashed.

The policy in effect prior to February 1, 1992 did not contain a "cap" of \$400.00 per year.

We have reviewed the decision of the Chambers judge, considered the relevant legislation, and the written and oral arguments of counsel and conclude that the Chambers judge made no error in law. The policy permits no flexibility and therefore is inconsistent with the requirement of the **Act** to provide reasonable dental services.

The appeal is therefore dismissed without costs.

Roscoe, J.A.

Concurred in:

Hallett, J.A.

Matthews, J.A.