

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2177126
Decision Date:	12/02/2021	Hearing Date:	10/22/2021
Hearing Officer:	Christopher Taffe		

Appearance for Appellant:
Appellant, pro se (by phone)

Appearance for MassHealth:
Dr. Sheldon Sullaway, Dentist and
Consultant for DentaQuest (by phone)

Interpreter:



*The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, Quincy, Massachusetts 02171*

APPEAL DECISION

Appeal Decision:	DENIED	Issue:	PA – Dental – Replacement Dentures
Decision Date:	12/02/2021	Hearing Date:	10/22/2021
MassHealth's Rep.:	S. Sullaway, DDS	Appellant's Rep.:	Appellant, pro se
Hearing Location:	HarborSouth Tower, Quincy		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated on or around August 31, 2021, MassHealth denied Appellant's prior authorization request for replacement of both one upper partial denture and one lower partial denture. See Exhibit 1; 130 CMR 420.428. Appellant filed a timely appeal with the Board of Hearings on September 13, 2021. See Exhibit 1; 130 CMR 610.015(B). Challenging a denial of a MassHealth of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's Prior Authorization (PA) request for replacement partial dentures.

Issue

Was MassHealth correct in determining that Appellant was not eligible for replacement of her partial dentures?

Summary of Evidence

Appellant is a MassHealth member over the age of 21 who represented herself at hearing. MassHealth was represented at hearing by Dr. Sullaway, a practicing dentist and dental professor within Massachusetts who was a present as a consultant for DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. The Board of Hearings provided a Spanish-speaking interpreter per the Appellant's request. All parties appeared and testified telephonically.

Dr. Sullaway testified that Appellant had requested under Service Code D5211 and D5212 prior approval for replacement of both (1) an upper partial denture and (2) a lower partial denture. MassHealth testified that per MassHealth dental regulation 130 CMR 420.428 the agency could generally not replace dentures for its members who previously received a denture through MassHealth unless the denture was more than 7 years old; there are also exceptions which could allow approval if the exception is demonstrated by the dental record. Appellant received her current upper partial denture and lower partial denture when they were approved and paid for by MassHealth in July of 2017, less than 7 years ago.

There was no indication in the Appellant's dentist's submission, found in Exhibit 3, that any of the exceptions existed which could support the request to waive the 7-year bar. Specifically, the prior authorization request from the treating provider did not include any records or writing indicating any of the following conditions existed for this member:

1. The existing dentures were lost or destroyed in unusual circumstances;
2. The existing dentures could not be successfully relined or reused;
3. The current dentures were unsatisfactory due to physiological causes that could not be remedied;
4. There was a medical or surgical condition that necessitated or required new dentures; or,
5. There was marked physiological change in the oral cavity of the member, indicating that future reline attempts would have a poor prognosis for success.

The Appellant's dental provider did not include any written narrative in the prior authorization submission. See Exhibit 3.

Appellant testified that she wanted the new denture because she suffered from anxiety, diabetes, high blood pressure, and asthma. She testified that food would continue to get caught in the lower denture and that she was asking for metal dentures instead of the plastic (resin) ones she currently has.

Dr. Sullaway testified that MassHealth did not cover partial dentures which were metal. Dr. Sullaway also testified that while the regulations could not permit the approval, the Appellant could potentially call DentaQuest for member complaints and ask to fill out a complaint form which, separate from the appeal process, may be able to assist with some form of alternative resolution for

the member.¹

Findings of Fact

Based on a preponderance of the evidence, I find the following:

1. Appellant is an adult MassHealth member, over the age of 21, who had MassHealth deny a prior authorization request under Service Code D5211 and D5212 for replacement of both (1) an upper partial denture and (2) a lower partial denture. (Testimony and Exhibits 1 and 3)
2. Appellant's current partial upper and lower denture were both received in July of 2017, less than 7 years prior to the hearing date. (Testimony)
3. The providing dentist who submitted Appellant's prior authorization request did not include any narrative indicating any of the exceptions which could allow possible replacement of any denture that was less than 7 years old. (Testimony and Exhibit 3)
 - a. The existing dentures were not lost or destroyed in unusual circumstances. (Testimony and Exhibit 3)
 - b. There is no evidence suggesting that the existing dentures could not be successfully relined or reused. (Testimony and Exhibit 3)
 - c. There is no evidence suggesting that the current dentures were unsatisfactory due to physiological causes that could not be remedied. (Testimony and Exhibit 3)
 - d. There is no evidence suggesting Appellant has a medical or surgical condition that necessitates or requires new dentures. (Testimony and Exhibit 3)
 - e. There is no evidence suggesting that Appellant had marked physiological change in the oral cavity of the mouth which would in turn indicate that future reline attempts would have a poor prognosis for success. (Testimony and Exhibit 3)

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,² covered services for certain dental treatments, including

¹ The DentaQuest phone number, as testified to and found in Exhibit 3, is 1-800-207-5019. The Board of Hearings is unaware of this alternative process and whether it would provide any relief.

² 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual ("Dental ORM" or "Dental Office Reference Manual") publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on November 30, 2021).

removable prosthodontic devices such as dentures, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.428 contains the relevant description and limitation for prosthodontic devices like those dentures at issue in this appeal, including specific sections regarding replacement request for such dentures. That regulation reads in relevant part as follows:

420.428: Service Descriptions and Limitations: Prosthodontic Services (Removable)

(A) General Conditions. **The MassHealth agency pays for dentures services once per seven calendar years per member, subject to the age limitations specified in 130 CMR 420.428(B).** MassHealth payment includes all services associated with the fabrication and delivery process, including all adjustments necessary in the six months following insertion. The member is responsible for all denture care and maintenance following insertion. The MassHealth agency does not pay for complete dentures when the member's medical record indicates material limitations to the member's ability to cooperate during the fabrication of the denture or to accept or function with the denture, or indications that the member does not intend to utilize the denture.

(B) Prosthodontic Services. The MassHealth agency pays for complete dentures for all members. The MassHealth agency pays for immediate dentures, including relines and post insertion procedures and placement of identification, for members younger than 21 years old.

...

(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis, and there is a favorable prognosis for treatment outcome. A tooth is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.

(F) Replacement of Dentures. The MassHealth agency pays for the necessary replacement of dentures. The member is responsible for denture care and maintenance. The member, or persons responsible for the member's custodial care, must take all possible steps to prevent the loss of the member's dentures. The provider must inform the member of the MassHealth agency's policy on replacing dentures and the member's responsibility for denture care. **The MassHealth agency does not pay for the replacement of dentures if the member's denture history reveals any of the following:**

- (1) repair or reline will make the existing denture usable;
- (2) any of the dentures made previously have been unsatisfactory due to physiological causes that cannot be remedied;
- (3) a clinical evaluation suggests that the member will not adapt satisfactorily to the new denture;
- (4) no medical or surgical condition in the member necessitates a change in the

denture or a requirement for a new denture;

*(5) **the existing denture is less than seven years old and no other condition in this list applies;***

(6) the denture has been relined within the previous two years, unless the existing denture is at least seven years old;

(7) there has been marked physiological change in the member's oral cavity, and any further reline has a poor prognosis for success; or

(8) the loss of the denture was not due to extraordinary circumstances such as a fire in the home.

(G) Complete Denture Relines. The MassHealth agency pays for chairside and laboratory complete denture relines. Payment for dentures includes any relines or rebases necessary within six months of the insertion date of the denture. The MassHealth agency pays for subsequent relines once every three calendar years per member.

(Bolded emphasis added.)

130 CMR 450.204 speaks to the medical necessity issue for all MassHealth providers. 130 CMR 450.204 reads in relevant part as follows:

450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

*(A) **A service is medically necessary if***

*(1) it is **reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions** in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and*

(2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.

*(B) **Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality.** A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)*

...

*(D) **Additional requirements about the medical necessity of MassHealth***

services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(**Bolded** emphasis added.)

In this matter, 130 CMR 420.428(A) and (F)(5) lay out the framework for dentures, stating that there is a strong presumption that replacement dentures for those dentures that are less than 7 years old cannot be approved by the MassHealth agency unless some extraordinary or unusual circumstances (such as those in 130 CMR 420.428(F)(1) through (4) or (6) through (8)), exist. In this case the provider did not submit any medical records per 130 CMR 450.204(B) substantiating the necessity for Appellant to replace these dentures due to the presence of such exceptional circumstance. The dentures are also under 5 years old. Appellant's desire for replacement dentures, while understandable, cannot serve as an exception, and there was no other relevant evidence presented at hearing that would support Appellant's claim and allow for approval under the regulations.

For these reasons, I find no reason to overturn the MassHealth decision, which was correctly made in accordance with the regulations for the agency's dental program. This appeal is thus DENIED.

Order for MassHealth

None.

Notification of Your Right to Appeal to Court

If you disagree with this decision, you have the right to appeal to Court in accordance with Chapter 30A of the Massachusetts General Laws. To appeal, you must file a complaint with the Superior Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: DentaQuest