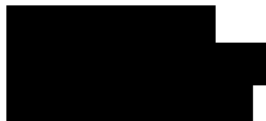


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2177133
Decision Date:	11/10/2021	Hearing Date:	10/22/2021
Hearing Officer:	Christopher Taffe		

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

Appearance for MassHealth:
Sheldon Sullaway, DDS, on behalf of
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 – Periodontal Scaling
Decision Date:	11/10/2021	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 August 23, 2021, MassHealth denied Appellant's request for prior authorization of periodontal screening and root planning on all four quadrants of the Appellant's mouth. See Exhibit 1; 130 CMR 420.431. 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 request for approval of the prior authorization request for periodontal screening and root planning on all four quadrants of the Appellant's mouth.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant did not currently have the dental condition to qualify for approval of the requested treatment.

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. All parties testified telephonically. A Spanish-speaking interpreter was provided per the request of Appellant and 130 CMR 610.013.

Dr. Sullaway testified that Appellant had requested, under Service Code 4341, periodontal scaling, sometimes also referred to as deep gum cleaning and/or rootplaning (hereafter "periodontal scaling"). This periodontal scaling request was made for all four quadrants (upper left, upper right, lower left, and lower right) of adult teeth within the Appellant's mouth.

Dr. Sullaway explained that MassHealth has set an objective standard, found within the MassHealth Office Reference Manual for Dental providers, that determines that the requested treatment of periodontal scaling is only medically necessary and allowable when there is evidence of significant bone loss to four or more teeth within a given quadrant.¹ Based on the x-rays and submission, MassHealth found that there was bone loss to some teeth, but never to four teeth within the same quadrant of the mouth. Specifically, Dr. Sullaway testified that, based on his review of the x-ray within Exhibit 3, the only teeth showing bone loss were by quadrant, tooth # 5 (in the upper right jaw); and teeth # 29 and 31 (in the lower right jaw). No bone loss was seen in the upper left or lower left jaws.

In response to questioning from Dr. Sullaway, Appellant indicated that her teeth were bleeding a lot. Dr. Sullaway suggested that if needed, mouthwash and/or a trip to the dental provider for some emergency cleaning (with a special dental mouthwash) could be done if the bleeding or related pain persisted.

Appellant stated that she needed the procedure because her top gums bled a lot and had a lot of pain. She also testified that whenever she brushed, her gums became bloody. She also feels like her teeth are detaching from her gums. She testified that she is on a lot of medications for her mental health and she believes that is affecting the health of the gums. She also mentioned she has metal braces on several of her teeth and she feels like that is adding to the stress and health of

¹ In addition to bone loss, the DentaQuest submission also suggests that a more severe condition, calculus on the root surfaces of at least 4 teeth, may also be used to justify the approval. But the evidence in this case suggests that this more severe condition of root planning, like the notable but (relatively) less severe condition of bone loss, was also not evident. See 130 CMR 420.427(B), and fn. 3, *infra*.

Specifically, the last page of the DentaQuest submission in Exhibit 3 shows the analysis and decision tree or matrix used by DentaQuest's initial reviewing dentist in responding to the initial request. The last question of that matrix is "Is there evidence of one of the following:

- Noticeable bone loss on at least 4 teeth in quad (s.5 mm or greater from the CEJ)
- Radiographic evidence of calculus on the root surfaces of at least 4 teeth in the quad
- Juvenile periodontitis (18 years old & younger)"

The answer to this last question was "No", leading to the denial. See Exhibit 3, page 17.

the parts of the teeth near the gums. Appellant also mentioned in her filing and testimony that she has been addicted to nicotine for over 20 years (since her early teenage years), and this has also played a role in stressing and causing unhealthy gums and teeth, and that she wanted the treatment.

Findings of Fact

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

1. Appellant is an adult MassHealth member who had a request under Service Code D4341 for periodontal screening on all four quadrants of the member's mouth denied. (Testimony and Exhibits 1 and 3)
2. Appellant does not have noticeable bone loss to four or more teeth in any of the four quadrants of the member's mouth. Specifically, the following adult dentition are the only teeth with evidence of bone loss:
 - a. tooth # 5 (in the upper right jaw); and
 - b. teeth # 29 and 31 (in the lower right jaw).(Testimony and Exhibit 3)
3. There is no evidence of bone loss to teeth in the upper left jaw or lower left jaw. (Testimony and Exhibit 3)
4. There is no evidence of calculus on the root surfaces of four or more teeth in any of the four quadrants of the mouth. (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; to that end, the agency 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 periodontal scaling, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.427 contains the relevant description and limitation for periodontal services like

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 October 29, 2021).

that at issue in this appeal. As to periodontal scaling and root planning requests, that regulation reads in relevant part as follows:

420.427: Service Descriptions and Limitations: Periodontal Services

(A) Surgical Periodontal Procedures.

...

(B) Periodontal Scaling and Root Planing. *The MassHealth agency pays for periodontal scaling and root planing once per member per quadrant every three calendar years. The MassHealth agency does not pay separately for prophylaxis provided on the same day as periodontal scaling and root planing or on the same day as a gingivectomy or a gingivoplasty. The MassHealth agency pays only for periodontal scaling and root planing for a maximum of two quadrants on the same date of service in an office setting. Periodontal scaling and root planing involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus. It is indicated for members with active periodontal disease, not prophylactic. Root planing is the definitive procedure for the removal of rough cementum and dentin, and/or permeated by calculus or contaminated with toxins or microorganisms. Some soft tissue removal occurs. Local anesthesia is considered an integral part of periodontal procedures and may not be billed separately. Prior authorization is required for members 21 years of age or older.*

(C) Non-surgical Scaling in the Presence of Generalized Moderate or Severe Gingival Inflammation - Full Mouth, after Oral Evaluation. ...

(**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.)

At hearing, as part of his testimony, Dr. Sullaway cited to the Dental ORM which is incorporated and referenced by earlier parts of the MassHealth Dental Regulations, see e.g., 130 CMR 420.410(A) through (C). The Dental ORM contains many of the detailed standards and guidelines in a format created for all MassHealth dental providers.

Dr. Sullaway specifically cited to pages 44 and 118 of the Dental ORM.³ Page 44 of the Dental ORM contains the following:

15.9 Periodontal Treatment

Some procedures require retrospective review documentation. Please refer to Exhibits A-F for specific information needed by code.

Documentation needed for procedure:

- Appropriate Diagnostic Quality Radiographs – periapical or bitewings preferred.
- Complete periodontal charting supporting with AAP case type. Dentists are required to record a sixpoint probing with all numbers recorded once per calendar year on all remaining teeth in the mouth for adult patients. Periodontal Screening and Recording (PSR) is not to be used instead of a full- mouth charting.
- Medical necessity narrative- Include a statement concerning the member's periodontal condition, date of service of periodontal evaluation and history of previous periodontal treatment.

...

From the American Academy of Periodontology (AAP) Policy on Scaling and Root Planning:
“Periodontal scaling is a treatment procedure involving instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces. It is performed on patients with periodontal disease and is therapeutic, not prophylactic, in nature. Periodontal scaling may precede root planning, which is the definitive, meticulous treatment procedure to remove cementum and/or dentin that is rough and may be permeated by calculus or contaminated with toxins or microorganisms.⁴ Periodontal scaling and root planning are arduous and time consuming. They may need to be repeated and may require local anesthetic.”

³ The actual ORM may be found at <https://www.masshealth-dental.net/Documents> and, specifically, <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (both last viewed on October 29, 2021).

⁴ This section, as well as the 6th and 7th sentences of 130 CMR 420.427(B), are evidence of the relative greater severity of the process of root planning when compared to the more generic periodontal scaling procedure. See fn.

Criteria for Periodontal Treatment

- Periodontal charting indicating abnormal pocket depths in multiple sites.
- At least one of the following is present:
 - Radiographic evidence of root surface calculus; or
 - Radiographic evidence of noticeable loss of bone support

The provider requested approval of the procedures under Service Code D4341. Page 118 of the Dental ORM clarifies the standard for Service Code D4341 and states that there must be a “*minimum of four (4) affected teeth in the quadrant*” and recommends a letter of medical necessity.

In looking at this matter, I conclude that MassHealth has laid out a consistent and detailed standard regarding the medical necessity for this service and that the agency properly and fairly applied it here to Appellant’s submission before its initial denial of this request. There is no evidence in the record suggesting that Appellant meets the high standard of having four teeth in any quadrant with enough bone loss or comparable medical issues. The Appellant’s provider also did not submit a separate medical necessity narrative or any evidence suggesting the presence of root surface calculus, so greater weight is given to the DentaQuest paperwork in Exhibit 3 and the testimony presented at hearing. The DentaQuest consultant also mentioned alternative treatments, including use of a special mouthwash at the dentist office, as alternatives.⁵ For these reasons, I conclude that the MassHealth decision to deny the request is proper and consistent with the record and regulatory standards.

Therefore, this appeal is DENIED.

Order for MassHealth

None.

¹, *supra*.

⁵ Although not specifically mentioned at this particular hearing, regular use of flossing is also frequently discussed in other dental appeals before the Board of Hearings as an alternative treatment and source to improve gum and general periodontal health.

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