

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2178148
<b>Decision Date:</b>	12/22/2021	<b>Hearing Date:</b>	12/10/2021
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Dr. Sheldon Sullaway *via telephone*



*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

<b>Appeal Decision:</b>	Dental	<b>Issue:</b>	Replacement of a Removable Prosthodontic
<b>Decision Date:</b>	12/22/2021	<b>Hearing Date:</b>	12/10/2021
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South 4	<b>Aid Pending:</b>	No

## 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 October 15, 2021, MassHealth denied the appellant's prior authorization (PA) request for a maxillary partial denture with a resin base (including retentive/clasping materials, rests and teeth) under procedure code D5211. (See 130 CMR 420.428 and Exhibit 1; Ex. 5, p. 3). The appellant filed this appeal in a timely manner on October 26, 2021. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's PA request for prosthodontic services.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428, in determining that the appellant was not eligible for prosthodontic services

## Summary of Evidence

The MassHealth representative, a dentist and consultant for DentaQuest, testified that the appellant's dental provider submitted a PA request for a maxillary partial arch denture with a resin base (including retentive/clasping materials, rests, and teeth) on October 15, 2021. (Ex. 5, p. 4). The request was denied

on the same date, and MassHealth sent the appellant the notice under appeal. (Ex. 1; Ex. 5, p. 3). The MassHealth representative stated that for some reason, the notice states that the “Service [was] Not Reviewed” and “Authorization [was] Not Required.” (*Id.*). The MassHealth representative testified that this PA request was, in fact, for a replacement of removable partial upper dentures and he did not know the reason that the notice did not contain this information. The MassHealth representative stated that according to his records MassHealth paid for a maxillary partial denture of the same description on August 10, 2016. The MassHealth representative stated that the regulations concerning dentures only allow for payment for dentures once every seven years. The MassHealth representative stated that under the regulations, members are responsible for the care and maintenance of the dentures after installation. For that reason, the MassHealth representative stated that the determination denying the PA request should be upheld.

The appellant testified that he was admitted to the hospital for emergency surgery on his appendix. Prior to the surgery, hospital workers took the appellant’s dentures and placed them in a bag. When the appellant awoke, the hospital could not find the bag with his dentures in it. The appellant stated that he asked the hospital to reimburse him for the lost dentures, but they have refused to pay. The appellant stated the hospital told him that they are not responsible for his lost dentures.

## **Findings of Fact**

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

1. The appellant had a maxillary partial arch denture installed on August 10, 2016. (Testimony of the MassHealth representative).
2. The appellant was admitted to the hospital for emergency removal of his appendix. (Testimony of the appellant).
3. The appellant’s dentures were taken from his possession by the hospital prior to his surgery. (Testimony of the appellant).
4. The hospital subsequently lost the dentures. (Testimony of the appellant).
5. The appellant’s dental provider submitted a PA request for a maxillary partial arch denture with a resin base (including retentive/clasping materials, rests, and teeth) on October 15, 2021. (Ex. 5, p. 4).
6. MassHealth denied the request on the same date. (Testimony of the MassHealth representative; Ex. 1; Ex. 5, p. 3).
7. MassHealth regulations for dentures only allow for payment once every seven years. (Testimony of the MassHealth representative).

## **Analysis and Conclusions of Law**

The regulation concerning the service descriptions and limitations for removable prosthodontics is

located at 130 CMR 420.428 and contains the following paragraphs relevant to this appeal:

(A) General Conditions. **The MassHealth agency pays for dentures services once per seven calendar years per member...**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...

...

(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, 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.** (Emphases added).

The record shows that the appellant had dentures placed in 2016. The record further shows that the appellant, through his dental provider, submitted a PA request for new dentures of the same description in 2021. Since the existing denture was less than seven years old, MassHealth will not pay for a replacement unless a condition on the list immediately above applies. In this case, the loss of the existing denture was due to extraordinary circumstances. True, those extraordinary circumstances did not involve a fire, but they did involve the dentures being entrusted to the care of

the hospital where the appellant was about to have an emergency appendectomy. The appellant was not able to safeguard the dentures for this reason. The hospital promptly lost the dentures and then refused to reimburse the appellant for their loss. Although the appellant did not submit written documentation concerning this, his testimony was entirely credible, in that the circumstances are believable. Absent MassHealth providing the appellant with a replacement, his only recourse would be to sue the hospital for negligence. It would be reasonable, and easier for everyone involved, for MassHealth just to allow the appellant to replace the dentures.

For the above stated reason, the appeal is APPROVED.

## **Order for MassHealth**

Approve the PA request and pay for the replacement dentures requested.

## **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.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

DentaQuest 1, MA