

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2178353
Decision Date:	01/21/2022	Hearing Date:	12/17/2021
Hearing Officer:	Christopher Jones		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway



*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:	Prior Authorization - Dental
Decision Date:	01/21/2022	Hearing Date:	12/17/2021
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South Tower	Aid Pending:	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 7, 2021, MassHealth denied the appellant's prior authorization request for complete upper dentures. Exhibit 3; 130 CMR 420.428(D). The appellant filed this appeal in a timely manner on December 9, 2021. Exhibit 3; 130 CMR 610.015(B); EOM 21-17 (Nov. 2021). Limitation of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for upper dentures because the agency had paid for upper dentures for the appellant within the past seven years.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(D), in determining that the appellant was ineligible for replacement dentures at this time because the agency had replaced her dentures within the past 84 months.

Summary of Evidence

Dr. Sullaway is a licensed dentist who works for DentaQuest, a company contracted by MassHealth to administer dental benefits. He testified that the appellant's request for a complete upper denture

was denied because MassHealth had paid another dentist for a complete upper denture for the appellant on May 2, 2017. He testified that MassHealth only pays for dentures once every 84 months (seven years). There are exceptions, but the prior authorization request did not include a narrative that explained why the dentures needed to be replaced within seven years.

The appellant testified that she had been living in another town in 2017. She had started the process of having dentures made there, but the dentures did not fit well at the first fitting. She had been scheduled to return for another fitting, but she moved back to the town she grew up in, which was a 45-minute drive away. She does not have independent transportation, which made it very difficult to get back to the dentist to finish the fittings. After a few years, she went to a new dentist in the town in which she now resides. This dentist made her new bottom dentures and they fit great. They also made the upper dentures, but they cancelled the appointment to fit them two hours before because they were denied coverage by MassHealth.

When asked why she did not follow up with the last dentist who made the uppers, she said that her boyfriend had been driving her to the appointments and that the relationship was not a good situation. She had not called the dentist however to ask if they still had the partially fitted upper denture. She felt that it would just be easier for MassHealth to pay for the new uppers because they were already made.

Dr. Sullaway confirmed that MassHealth paid for the lower dentures, because it had never paid for lower dentures for the appellant before. He further suggests that if the appellant felt her old dentist had done something wrong in the making of the original dentures, she could file a complaint with MassHealth regarding the service. He gave the appellant the customer service phone number (800-207-5019) and the PO Box (attn.: Intervention Services, PO Box 9708, Boston, 02114-5019) to which she could write to receive a provider complaint form. He explained, however, that whether the member received her dentures, MassHealth has paid for them in the past seven years and that is what is preventing MassHealth's approval for her requested replacement dentures.

Findings of Fact

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

1. MassHealth paid for the appellant to have upper dentures made in May 2017. Testimony by Dr. Sullaway.
2. The appellant never received these dentures. During the fitting process she moved, and she never went back to get them. Testimony by the appellant.
3. The appellant's current dentist created lower dentures for her, which were covered by MassHealth. Her provider then went on to create the upper dentures, but they refused to give them to the appellant because MassHealth refused payment because the agency had paid for upper dentures in the past seven years. Testimony by the appellant; Exhibit 5; testimony by Dr. Sullaway.

Analysis and Conclusions of Law

MassHealth pays for dental services that are medically necessary. 130 CMR 420.421(A). Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.¹ 130 CMR 450.204. MassHealth's dental contractor also publishes additional guidance in the Dental Program Office Reference Manual ("ORM").²

Regarding dentures, the agency has defined when they are medically necessary 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.

...

(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

¹ The Dental Manual is available on MassHealth's website, in the MassHealth Provider Library. Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last visited January 4, 2022).

² The Office Reference Manual is available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited January 4, 2022).

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.

130 CMR 420.028 (emphasis added).

Breaking this regulation down, subsection (A) clearly limits payment for dentures to once every seven years. However, subsection (F) allows replacements that are "necessary," and the remaining language indicates that in some circumstances replacements will be allowed within seven years.³ Some additional guidance exists in section 15.6 of the ORM. Under the "Criteria for Replacement Prosthodontics," it states: "If there is a pre-existing prosthesis, it must be at least seven years old and unserviceable to qualify for replacement"; but it also states, "Replacement of lost, stolen, or broken dentures less than seven years of age **usually will not** meet criteria for pre-authorization of a new denture." (Emphasis added.) Given the available guidance, I am persuaded that MassHealth allows the replacement of lost, stolen, or broken dentures within fewer than seven years if there are "extraordinary circumstances such as a fire in the home."

Unfortunately, it is not clear that the appellant's upper dentures are "lost, stolen, or broken." It is entirely possible that they are still sitting in the dentist's office where they were made and fitted, but never picked up. Furthermore, the appellant's decision to not go back and pick them up is not an "extraordinary circumstance." Therefore, this appeal is 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

³ It is particularly difficult to comprehend the linguistic meaning of paragraph (5). Paragraph (5) requires that one of the other conditions must **not** be met to replace dentures before seven years. It would be clearer if the triple negative structure of this regulation were rephrased.

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA