

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2178510
Decision Date:	02/03/2022	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:	Approved	Issue:	Prior Authorization – Dental
Decision Date:	02/03/2022	Hearing Date:	12/17/2021
MassHealth’s Rep.:	Dr. Sheldon Sullaway	Appellant’s Rep.:	Pro se
Hearing Location:	Remote	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 13, 2021, MassHealth denied the appellant’s prior authorization request for complete upper and lower dentures. Exhibit 3; 130 CMR 420.428(D). The appellant filed this appeal in a timely manner on November 8, 2021. Exhibit 2; 130 CMR 610.015(B). 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 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 October 13, 2021 request for a complete upper denture was denied because MassHealth had paid another dentist for a complete

upper and lower dentures within the past seven years.¹ 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 he has been in recovery for alcohol abuse since 2017. He quit drinking around the time that he received his dentures. To aid him with his recovery, his doctor prescribed a medication to make him ill if he drank alcohol. He testified that he had an adverse reaction to the medication, potentially due to the extent of liver damage he was suffering at the time. He was hospitalized and diagnosed with hepatic encephalopathy. He was not fully cognizant during his hospitalization, but he had the dentures going into the hospital and he did not have them afterwards. He could not swear as to when exactly they were lost because he was not mentally functional for about two months after his hospitalization. Eventually he called the hospital to report his dentures lost there, and he was curtly told they did not have them. His recollection was that they were very dismissive and did not inform give him a chance to file a lost item claim.

Since that time, the appellant has remained sober and has been building a life for himself. He is close to graduating and getting a degree that can enable him to get a professional job. He argued that his ability to get a professional job is limited by not having dentures. He is now proactively trying to take all steps possible to find or get his dentures replaced. He was referred to a grievance line, and he filed a grievance regarding the hospital's treatment of him when he tried to call to find if they had his dentures. Dr. Sullaway repeated that he should pursue the grievance, as the grievance can be allowed for unique situations.

Findings of Fact

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

1. The appellant had complete upper and lower dentures made within the past seven years. Testimony by MassHealth's representative and the appellant.
2. On October 13, 2021, the appellant's provider submitted a prior authorization request for complete upper and lower dentures. MassHealth denied the request on the same day. Exhibit 3.
3. The appellant lost his dentures during a medical crisis induced by hepatic encephalopathy. He believes they were lost in the hospital. Testimony by the appellant.

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

¹ Dr. Sullaway had the date of November 2024 as the date the dentures were provided. Based upon the appellant's testimony that he received them in 2017, it is presumed 2024 is when the appellant will be eligible for replacements.

governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.² 130 CMR 450.204. MassHealth's dental contractor also publishes additional guidance in the Dental Program Office Reference Manual ("ORM").³

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 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;

² 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).

³ The Office Reference Manual is available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited January 4, 2022).

(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.⁴ 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."

The question, therefore, is whether the loss of the appellant's dentures was due to extraordinary circumstances. The example of a house fire implies emergency circumstance in which there is no chance to ensure the safety of the member's dentures. I find that a severe medical condition resulting in hospitalization would qualify as such an extraordinary circumstance. The appellant testified that he was non-functional due to brain swelling for about two months. This loss was not due to a lack of care or negligence on the appellant's part, but rather to a medical event over which he had no control at the time. For these reasons this appeal is APPROVED.

Order for MassHealth

Approve the appellant's prior authorization request for complete upper and lower dentures.

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

⁴ 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.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA