

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2179178
Decision Date:	6/2/2022	Hearing Date:	01/14/2022
Hearing Officer:	Scott Bernard	Record Open to:	05/13/2022

Appearance for Appellant:



Appearance for MassHealth:
Dr. Cynthia Yered (DentaQuest)



*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:	Removable Prosthodontics
Decision Date:	6/2/2022	Hearing Date:	01/14/2022
MassHealth's Rep.:	Dr. Cynthia Yered	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 November 3, 2021, MassHealth denied the appellant's prior authorization (PA) request for removable upper and lower dentures because of service limitations. (See 130 CMR 420.428(D); Exhibit (Ex.) 1; Ex. 2, pp. 3, 5; and Ex. 5, p. 3). The appellant through her attorney filed this appeal in a timely manner on December 3, 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 because of service limitations.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428, in determining that the PA request for dentures should be denied due to service limitations.

Summary of Evidence

The appellant is an individual under the age of 65. (Ex. 3; Ex. 5A, pp. 3, 5). On November 3, 2021, MassHealth received a PA request from the appellant's current dental provider for complete maxillary and mandibular dentures under procedure codes D5110 and D5120¹. (Ex. 5A, pp. 3, 4).

¹ See MassHealth Dental Manual, Subchapter 6, § 609 for these service codes and limitations.

The MassHealth representative stated that under 130 CMR 420.428, MassHealth will pay for dentures only once every seven years. The MassHealth representative stated that MassHealth denied the PA request because the appellant received a set of dentures on September 29, 2020, which was only 15.5 months prior to the date of the hearing.

As part of the PA request, the appellant's dental provider submitted Maxillary and Mandibular perio charts dated November 2, 2021. (Ex. 5A, p. 7). These showed that the appellant did not have any of her natural teeth. (*Id.*). The notes that accompanied the chart state that the appellant presented to the dental provider on September 16, 2021 and reported that she was having many problems with her upper and lower dentures. (Ex. 5A, p. 6). The appellant further reported that her previous dentist thought that she may be allergic to the plastic used to make the dentures. (*Id.*). She stated that the dentures do not fit well and are uncomfortable. (*Id.*) She stated that food becomes trapped under the lower denture. (*Id.*). An intraoral examination on November 2, 2021, showed that the maxillary and mandibular arches were adequate in width and height and did not look inflamed. (*Id.*). The provider assessed the dentures, determining that the bite was regular in the mandibular denture but could develop better suction. (*Id.*). For the maxillary denture, the provider used a light body impression material to adjust it to a position the appellant felt was correct with the right bite. (*Id.*). The provider wrote that he liked a reline at the position. (*Id.*). The provider indicated that the denture should be sent to a lab to assess whether a reline of the appellant's dentures would fix the problem before planning to make a new set of dentures. (*Id.*).

The MassHealth representative stated that she agreed with the information submitted by the appellant's current dental provider that a reline be done. This would reuse the same denture but add material to the inside of the denture for a better fit. The MassHealth representative explained that a lab reline meant that the dentures would be done by an outside lab which would provide a more permanent fix with the same material rather than a reline done in the provider dentist's office.

The appellant testified that a reline was performed by her previous dental provider. He tried to add epoxy to make the dentures fit better but even after he finished the denture did not fit properly. The appellant stated that previous dentist used a prefabricated set of dentures which never fit her mouth properly.

The appellant's attorney asked the MassHealth representative whether there was a situation where dentures do not fit correctly and cannot be made to fit correctly. In response, the MassHealth representative stated that the problem could be that the dentist did not make the dentures correctly. It could also be that since this was a first set of dentures the appellant could not adapt to the dentures. The MassHealth representative stated that she could not say what the situation was in this case. The MassHealth representative also stated that the dentist who made the dentures would generally be responsible for their repair. Both the MassHealth representative and the appellant's attorney confirmed that the dental provider who submitted the PA under consideration was not the same dentist who made the appellant's dentures.

The appellant stated that the first dentist was already paid for the dentures and the reline. The Harvard dentists had to re-do the appellant's gums because there were so many bone shards in there. The appellant stated that this changed her whole mouth. The appellant stated that she had a reaction to the epoxy used, which made her throat raw. The appellant stated that after about 20

minutes of wearing the dentures, she felt like her throat was closing and that she could not breathe. When the appellant asked her former dentist about this and what she should do, he said he didn't know what to tell her. The appellant stated that her current dentists did add another epoxy to try to get the dentures to fit because a reline was already done and paid for. The appellant stated that the new epoxy was soft and bouncy, and she still had issue with the dentures not staying in place while she chewed. The appellant stated the dentures cause her pain. The appellant stated she cannot eat with the dentures in her mouth. The appellant stated that she cannot go out of the house since she did not have any teeth.

In answer to a question from the appellant's attorney, the MassHealth representative stated that there were situations in which MassHealth will pay for a new set of dentures more than once every 84 months, like if the appellant had a medical or surgical condition. The MassHealth representative stated that if the appellant underwent surgery, such as to the jaw, that caused a marked change in embouchure, MassHealth would pay for a new set of dentures. The MassHealth representative stated that the changes the appellant to her mouth in preparation for the dentures were normal under these circumstances.

The appellant stated that the surgery to her mouth occurred five months after the dentist originally pulled out her teeth. The dentist only changed the top and bottom front of her mouth and made no changes to the back of her mouth. The appellant stated that her gums were uneven. The appellant stated that even when she uses glue to affix the dentures, food still gets under the dentures. The appellant stated that her current dentists did want to possibly do more to fix her dentures, but they want her to pay for it and she does not have the money. The appellant stated that she has lost 30 pounds because she is limited to eating soft foods.

The appellant's attorney requested that the record remain open for her to obtain further documentation from the current dental provider concerning the attempt to reline the dentures. She explained that she has been trying to obtain this information. The dental provider is a dental school, however, and they have been in a term break. The appellant's attorney stated that she believed that the school was back in session. The appellant's attorney was given until February 14, 2022 to submit the information and the MassHealth representative was given one week to respond. (Ex. 5B).² The due date for both parties was later extended several times for good cause. (See Ex. 6, Ex. 7, Ex. 8, Ex. 9, Ex. 10, Ex. 11, Ex. 12).

The appellant's attorney submitted a letter from the Harvard School of Dental Medicine (the current dental provider). (Ex. 8, p. 7). The letter stated that the appellant's existing dentures were corrected a few times before coming to them. (Id.). On evaluation, it was noticed that there was a possibility for the dentures to be more retentive. (Id.). The dental provider did a trial correction to see if a resin material would fix the problem. It worked for a few days but did not benefit her much. (Id.). Since the appellant also thinks she is allergic to the denture material, the provider would give her samples of conventional and digitally made denture material to test for whether she actually has an allergy. (Id.). Assuming that the appellant was not allergic, the dentist would advise the appellant to have a

² The appellant's attorney had not received a copy of MassHealth's packet (Ex. 5A) until the hearing officer forwarded a copy to her during the hearing. For that reason, the appellant's attorney was also given a more general opportunity to submit further information in response. (See Ex. 5B).

new set of dentures made. (Id.). If she is not allergic to the denture material the appellant would benefit from a new set of dentures. (Id.). The appellant also has medical conditions that make her mouth dry, and this is an important factor in denture retention, and is a possible limitation. (Id.). They need to do further evaluation with a cone beam CT for the prospects of implants. (Id.). The appellant's attorney also submitted a color picture of the appellant's dentures, showing that there is a lighter material at the top of the denture, which is the resin material the Harvard dentists applied to make the dentures fit better. (Ex. 11). The appellant's attorney stated that the large amount of material indicates how much the Harvard dentists were required to add in order to attempt to make the dentures fit. (Id.). The appellant's attorney emphasized that the dentists were not able to make this work.

These documents were forwarded to the MassHealth representative. (Ex. 12, p. 7). The MassHealth representative responded by stating:

I am not able to tell how the dentures fit the appellant from the photo. A large amount of material added to the dentures does not necessarily indicate that the dentures cannot be fixed with a reline. Patient's mouths do change considerably during the first few months following extractions and dentures need to be relined. The notes in the electronic health record from Harvard Dental Center indicate ill-fitting dentures. The note in the electronic health record from November 1, 2021 stated Next visit: lab reline. There are no further notes provided to indicate what was done nor the outcome. However, the letter from Harvard Dental School from 3/2/2022 stated that the trial correction worked for a few days and did not benefit her much. The dentist did not say why the trial correction did not work and nothing was indicated in the electronic record. The letter also stated that the appellant may have an allergy to the denture material and has a medical condition causing dry mouth. Was the appellant tested for an allergy? If she has an allergy, new dentures will not help. From the letter provided by the dentists at the Harvard Dental Center, the trial denture reline did not benefit the appellant. Therefore a lab reline would not be a viable solution. The appellant may benefit from new dentures contingent results from allergy testing. (Ex. 12, p. 8).

Findings of Fact

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

1. The appellant is an individual under the age of 65. (Ex. 3; Ex. 5A, pp. 3, 5).
2. On November 3, 2021, MassHealth received a PA request from the appellant's current dental provider for complete maxillary and mandibular dentures under procedure codes D5110 and D5120. (Ex. 5A, pp 3, 4).
3. Under 130 CMR 420.428, MassHealth will pay for dentures only once every seven years. (Testimony of the MassHealth representative).
4. MassHealth denied the PA request because the appellant received a set of dentures on

September 29, 2020, 15.5 months prior to the date of the hearing. (Testimony of the MassHealth representative).

5. Maxillary and Mandibular perio charts dated November 2, 2021 showed the appellant did not have any of her natural teeth. (Ex. 5A, p. 7; Testimony of the MassHealth representative).
6. The notes that accompanied the chart state:
 - a. The appellant presented to the current dental provider on September 16, 2021 and reported that she was having many problems with her upper and lower dentures.
 - b. The appellant further reported that her dentist thinks that she may be allergic to the plastic used to make the dentures.
 - c. The appellant stated that the dentures did not fit well, are uncomfortable, and food becomes trapped under them. (Ex. 5A, p. 7).
7. The notes from an intraoral examination on November 2, 2021 state:
 - a. The maxillary and mandibular arches were adequate in width and height and did not look inflamed.
 - b. The provider determined that the bite of the dentures was regular in the mandibular denture but could develop better suction.
 - c. For the maxillary denture, the provider used a light body impression material to adjust it to a position the appellant felt was correct with the right bite.
 - d. The provider wrote that he liked a reline at that position.
 - e. The provider indicated that the denture should be sent to a lab to assess whether a reline of the appellant's dentures would fix the problem before planning to make a new set of dentures.
 - f. The provider indicated that the denture should be sent to a lab to assess whether a reline of the appellant's dentures would fix the problem before planning to make a new set of dentures. (Ex. 5A, p. 6).
8. The appellant's existing dentures were corrected a few times before the appellant came to the current dental provider. (Ex. 8, p. 7).
9. Upon that dentist's evaluation, it was noticed that there was a possibility for the dentures to be more retentive. (Ex. 8, p. 7).
10. The current dental provider did a trial correction to see if a resin material would fix the problem. (Ex. 8, p. 7).
11. The trial correction worked for a few days but did not benefit the appellant much. (Ex. 8, p. 7).
12. The appellant believes that she is allergic to the denture material. (Ex. 8, p. 7; Testimony of the appellant).
13. Assuming that the appellant was not allergic, the dentist would advise having a new set of dentures made. (Ex. 8, p. 7).

14. The appellant also has medical conditions that make her mouth dry, and this is an important factor in denture retention, and is a possible limitation. (Ex. 8, p. 7).

Analysis and Conclusions of Law

MassHealth pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. (130 CMR 420.410(A)(1)). The MassHealth agency requires prior authorization for any exception to a limitation on a service otherwise covered for that member as described in 130 CMR 420.421 through 420.456. (130 CMR 420.410(B)(3)). MassHealth pays for prosthodontic services as described in 130 CMR 420.428. (130 CMR 420.421(C)(7)).

130 CMR 420.428 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. 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.

(C) Denture Procedures.

...

(D) Complete Dentures. Payment by the MassHealth agency for complete dentures includes payment for all necessary adjustments, including relines, as described in 130 CMR 420.428(E)³.

(E) Removable Partial Dentures...

(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

³ The cross-reference should be to paragraph (G) instead of paragraph (E). Prior to 2017, Paragraph (E) was entitled "Complete Denture Relines and Rebases." MassHealth revised the regulation in 2017 and moved this to paragraph (G) and renamed it "Complete Denture Relines" without changing this cross-reference. (Compare 2010 MA REG TEXT 231932 (NS) with 2017 MA REG TEXT 455802 (NS)).

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. (Emphases added).

The record further shows that MassHealth paid for a set of upper and lower dentures on September 29, 2020. The record shows that the appellant (through her current dental provider) submitted a PA request for both upper and lower dentures on November 3, 2021, a little over 13 months later. The regulations state that MassHealth will only pay for dentures once per seven calendar years per member. The regulations also state, however, that MassHealth will pay for the necessary replacement of dentures. Confusingly the regulation then states that MassHealth will not pay for replacement dentures if any one of eight listed conditions applies, including if “repair or reline will make the existing denture usable.” The implication seems to be that if a repair or reline will not make the existing denture usable, it will be necessary for MassHealth to pay for a replacement.

A preponderance of the evidence shows that the appellant's dentists have made several attempts to repair or reline the appellant's dentures without success. In addition to the appellant's testimony, the appellant's attorney submitted a letter from the appellant's current dental provider which stated that they did a trial correction to see if a resin material would fix the problem. The provider stated that it worked for a few days but did not benefit her much. The dentist also stated that the appellant would benefit from new dentures.

Admittedly there are some questions concerning the viability of a new set of dentures. The appellant has medical conditions that cause dry mouth, which her dentists state could affect retention. Her dentists also note that the appellant reported that she is allergic to the material of the dentures. In the hearing, however, the appellant seemed to indicate that she is sensitive to

the epoxy used to attempt repairs on the dentures rather than the dentures themselves. The appellant was more concerned with the fit of the dentures and the pain the dentures cause her.

For these reasons, the appeal is APPROVED.

Order for MassHealth

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

Implementation of this Decision

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

[REDACTED]

DentaQuest 1, MA