

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2201793
Decision Date:	6/16/2022	Hearing Date:	05/27/2022
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 – Adult Dental
Decision Date:	6/16/2022	Hearing Date:	05/27/2022
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 decision dated February 16, 2022, MassHealth denied the appellant’s prior authorization request for upper dentures. (Exhibit 4; 130 CMR 420.428(D).) The appellant filed this appeal in a timely manner on March 9, 2022.¹ (Exhibit 3; 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 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 it had paid for dentures within the past 84 months.

¹ The Board of Hearings dismissed the appeal on March 11, 2022 because the appellant did not include a copy of the MassHealth notice or explain why she was appealing. She responded on April 19, and this matter was scheduled for hearing.

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 dentures was denied because MassHealth had paid another dentist for upper dentures on February 24, 2016. 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 the dentures broke and they were unfixable. She testified that she actually had two pair break on her, and she believes that they were poorly made. The first pair broke after only a week, and she had to bring them back to the dentist who made them. He made her another pair, but they broke after three years. When asked if she had attempted to get them fixed, she testified that the dentist told her that they were unfixable. She did not leave the dental practice on good terms, and therefore did not have anything in writing from that dentist regarding the fixability of the dentures. She did not hold on to the broken dentures for another dentist to opine as to whether they could be fixed. When asked why she did not request a new pair three years ago, she said she knew she was still within the seven-year window for when they were not replaceable.

Dr. Sullaway explained that she could file a complaint against the dentist regarding his manufacturing of her dentures, but since she no longer had the dentures and it occurred so long in the past, it is unlikely that the investigation would be able to make any clear determinations regarding the quality of the dentures and whether the dentist should be forced to refund MassHealth.

Findings of Fact

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

1. On or around February 16, 2022, a prior authorization request was submitted on the appellant's behalf, seeking coverage for upper dentures. (Exhibit 4.)
2. MassHealth denied this request on the same day because it had paid for dentures in February 2016, within the past seven years. (Exhibit 4; testimony by Dr. Sullaway.)
3. The appellant's dentures broke about three years ago due to ordinary wear and tear. The appellant believes they were poorly made, but she did not have them looked at by another dentist. (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

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 ruled that 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

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 May 27, 2022).)

³ The Office Reference Manual is available at <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited May 27, 2022).

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 replacements will be allowed within seven years in some circumstances.⁴ 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 loss of the appellant's dentures do not meet any of the exceptions listed in 130 CMR 420.028(F). The appellant's dentures broke during ordinary use. This may have given rise to a complaint that they were poorly made, in which case MassHealth may have been able to demand the dentist replace them or reimburse the agency for their creation. However, at this stage, the appellant must wait until her seven-year coverage limitation window has closed before MassHealth will replace them. 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 Court

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.

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