

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DENIED

Appeal Number: 2202584

Decision Date: 6/28/2022

Hearing Date: 06/03/2022

Hearing Officer: Christopher Taffe

Appearance for Appellant:

Appellant, pro se (by phone)

Appearance for MassHealth ICO:

Cassandra Horne, Supervisor/Manager, Appeals and Grievances; and Allen Finkelstein, DDS, both on behalf of Commonwealth Care Alliance (both by phone)

Interpreter:

Paula (Spanish)

ITI Interpreter # 223035 (by phone)



*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:	MCO – Prior Authorization – Dental Bridge
Decision Date:	6/28/2022	Hearing Date:	06/03/2022
MassHealth’s Reps.:	C. Horne and D. Finkelstein, DDS	Appellant’s Rep.:	Appellant, pro se
Hearing Location:	HarborSouth Tower, Quincy	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 March 28, 2022 titled “*Notice of Appeal Denial*”, the Commonwealth Care Alliance Senior Care Options Plan Program (“CCA”), a Senior Care Organization (“SCO”), informed Appellant that it was denying her Level I appeal for Prior Authorization (PA) request # for certain dental-related services. This PA request sought approval of the following dental services:

- Code D0383 – Cone Beam- Both Jaws;
- Code D6059 – Abutment Supported Porcelain Fused to Metal Crown for Tooth # 11;
- Code D6056 – Prefabricated Abutment – Includes Modification and Placement for Tooth # 11;
- Code D6010 – Surgical Placement of Implant Body; Endosteal Implant for Tooth # 11;
- Code D4266 – Guided Tissue Generation – Resorbable Barrier Per Site for Tooth # 11; and
- Code D7953 – Bone Replacement Graft for Ridge Preservation – Per Site for Tooth # 11.

See Exhibit 3 and Exhibit 5, page 83.

On April 4, 2022, Appellant filed a timely request for a Fair Hearing over the phone with the MassHealth agency; this request was forwarded to the Board of Hearings (BOH). See Exhibit 1; 130 CMR 610.015(B)(7)(a). On April 7, 2022, BOH dismissed this appeal, without prejudice, for failure to sufficiently identify the adverse and appealable action. See 130 CMR 610.035; Exhibit 2.

On April 15, 2022, Appellant filed proof of the appealable action with BOH leading to a vacate of the dismissal and the eventual scheduling of the hearing. See 130 CMR 610.035; 130 CMR 610.048; Exhibit 3. BOH has limited jurisdiction over denials given to certain MassHealth members when those denials involve requests for assistance related to covered benefits from a Managed Care Contractor (“MCC”) (including an SCO like that of Commonwealth Care Alliance (“CCA”)), with which the member is enrolled. See 130 CMR 610.032(B); 130 CMR 508.008 (discussing the role of MCC’s in the MassHealth program); 130 CMR 508.011. The denial action codified in the March 28, 2022 denial notice is one such appealable action.

Action Taken by MassHealth/CCA

CCA denied the Appellant’s request for a series of dental procedures consisting of a bridge and a related dental implant.

Issue

The appeal issue is whether Appellant is entitled to either of the bridge and implant decision she requested to treat her teeth.

Summary of Evidence

Appellant is an adult MassHealth member, who is [REDACTED] and who receives dental benefits as an enrollee in CCA’s Senior Care Options Plan Program, a plan which is a type of SCO or Senior Care Option. For this matter, CCA is an SCO, and SCO is a specific type of Managed Care Contractor (MCC) that offers benefits to elder enrollees who have Medicaid benefits; the SCO will generally deliver a member’s primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member available through his or her health insurance benefits which may also include Medicare.¹

Appellant has been a CCA enrollee since 2019. Appellant appeared and represented herself at hearing, and a Spanish-speaking interpreter was provided at her request per 130 CMR 610.017. CCA was represented at hearing by Ms. Horne, who is an Appeals & Grievances Supervisor/Manager for the CCA’s Operations Department, and Dr. Finkelstein who is a dentist and who participated in the review during Appellant’s Level I appeal, an internal appeal process with CCA sometimes referred to as a request for reconsideration.²

CCA explained that it had received a request for dental services on behalf of Appellant. The initial Prior Authorization request was denied on or around March 22, 2022, and, after an internal appeal and reconsideration request, CCA issued the Level I denial on March 28, 2022.

¹ Although not discussed, the paperwork in Exhibit 1 suggests that Appellant is also a Medicare beneficiary.

² The cover to the CCA submission, found in Exhibit 5 indicated that at hearing, in addition to Ms. Horne, CCA was to also be represented by Ms. Jessica Medeiros the “Director of Dental” for CCA. Dr. Finkelstein appeared in lieu of Ms. Medeiros.

[The initial denial notice, found in Exhibit 5, page 2, lists completely different service codes than those in the March 28, 2022 notice. The codes in the March 22, 2022 denial appears to be codes (D6740 for teeth # 7 and 11, and D6245 for teeth # 8, 9, and 10).³ It appears that these codes are for some type of bridgework. Bridgework is sometimes also referred to as a fixed (or non-removable) partial denture; a bridge is often a fixed restoration used to replace a missing tooth, where the artificial tooth may be connected to either adjacent existing teeth or an implant in the jaw, depending on the scope of the problem.]

Dr. Finkelstein testified that CCA ultimately would not cover the bridge because, per CCA guidelines, it would only cover bridges if the x-rays submitted by the provider showed that the supporting teeth would have 50 % bone support, or enough strength, to support the bridge. In this case, Appellant's teeth did not have enough bone support, as she had bone loss throughout the mouth, as evidenced by the missing teeth on her upper left arch (including where tooth # 11 was), and the lack of opposing teeth on the lower left arch. Dr. Finkelstein later testified that using the opposite side canine tooth (#7) as a potential support or abutment in the initial bridge request was not good dental practice because of its specific size, bone support in this Appellant's mouth, and location. Because the planned requested service for bridgework was not thought to be medically feasible and successful, it was not something that could be considered "medically necessary". Dr. Finkelstein also said that there were less costly alternatives to bridge work and/or implants, such as partial dentures that could be used to address Appellant's issue after some other services⁴ which may first resolve or ameliorate the bone issue.

In addition, the portion of the treatment in which the Appellant requested an implant (to support a bridge) was also denied, as implants are not generally covered for CCA members, other than for members who may be edentulous (lacking teeth) and who need a complete denture to be supported by an implant. In this case the implant was requested in conjunction with bridgework, and thus there was no appropriate dental plan requested which could be used to determine any medical appropriateness or need for the implant.

Appellant testified that she had an existing bridge for more than 45 years and that she was told by her dentists that it could fail or fall at any time, and that she needed a replacement bridge. She wanted, and said she was encouraged to seek, the same type of bridge as she currently had. Appellant states that she is having anxiety and emotions from the stressful issue regarding her existing bridge. She believes the fact that her bridge has lasted over 40 years is a good sign of her dental hygiene and the quality of the original dental work. She believes the request is reasonable and appropriate and that denial of this request will cause inappropriate and unnecessary mental stress.

Findings of Fact

³ These codes of D6740 and D6245 do not appear anywhere in Exhibit 7, which is the MassHealth Dental Program's Office Reference Manual, and which contains all the dental service codes covered by the MassHealth program for its members, regardless of whether the member is a child, young adult, or adult.

⁴ The testimony was unclear about what procedures, beyond the practice of good dental hygiene, could be used to address this "bone issue".

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

1. Appellant is a MassHealth member, [REDACTED], who has enrolled in CCA as a managed care option for her SCO benefits. (Testimony and Exhibits 1 and 5)
2. Appellant through her dental provider submitted a PA request to CCA which was initially denied on March 22, 2022 and, after a request for reconsideration/internal appeal, CCA issued a Level I denial to Appellant of the requested PA on March 28, 2022. (Testimony and Exhibits 3 and 5)
 - a. The initial PA denial notice indicated that Appellant was being denied bridge work, and the Level 1 denial indicated that Appellant was being denied implant services for tooth # 11. (Testimony and Exhibits 3 and 5)
 - b. Appellant is seeking bridge work in the area of tooth number 11 to replace bridgework that is approximately more than 40 years old. (Testimony and Exhibits 1, 3 and 5)
 - c. Some of the bridgework proposals that Appellant and/or her provider proposed to CCA involve a dental implant for support, and others rely on surrounding teeth for support. (Testimony and Exhibits 3 and 5)
3. Appellant appealed the Level I denial notice to the Board of Hearings with an April 4, 2022 filing. (Exhibit 1)
4. Appellant's x-rays do not show evidence of supporting teeth with enough bone support. (Testimony and Exhibit 5)

Analysis and Conclusions of Law

MassHealth members who are 65 years of age or older, like the Appellant, may enroll in a SCO pursuant to 130 CMR 508.008(A). After a member enrolls, the SCO will deliver the member's primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. Such covered services may encompass specialty, behavioral health, and long-term-care services; dental benefits are one such included medical service. Whenever an SCO like CCA makes an adverse benefit decision, it must provide notice to the affected MassHealth member. 130 CMR 508.011. An SCO has 30 days to resolve any internal appeals, and the MassHealth member then has 120 days to request a "Level II" Fair Hearing from the Board of Hearings, which is what happened here with Appellant's dental request. See 130 CMR 508.012; 130 CMR 610.015(B)(7).

As to any prior authorization or PA request, the MassHealth program is generally required to cover services and treatments for its Medicaid beneficiaries that are "*medically necessary*". The MassHealth regulation at 130 CMR 450.204 in the "All Provider" regulatory manual, and it defines that term as follows:

450.204: Medical Necessity

...

(A) A service is “medically necessary” if:

(1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and

(2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

Furthermore, additional guidance “about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.” See 130 CMR 450.204(D). With the explicit referenced to “coverage guidelines” within this section of the regulation, it appears that the regulatory law allows the MassHealth program to have coverage exclusions within other agency regulations and relevant documentation.

As one example, within the MassHealth dental program alone, there are many exclusions (or non-covered services) and restrictions that the MassHealth agency has within its dental regulations which are imposed on its members. This list of excluded dental services is greater for adults over the age of 21 than it is for younger Medicaid recipients in the Commonwealth. See 130 CMR 420.421.

420.421: Covered and Non-covered Services: Introduction

(A) Medically Necessary Services. The MassHealth agency pays for the following dental services when medically necessary:

(1) the services with codes listed in Subchapter 6 of the Dental Manual, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456; and

(2) all services for EPSDT-eligible members, in accordance with 130 CMR 450.140 through 450.149, without regard for the service limitations described in 130 CMR 420.422 through 420.456, or the listing of a code in Subchapter 6. All such services are available to EPSDT-eligible members, with prior authorization, even if the limitation specifically applies to other members younger than 21 years old.

(B) Non-covered Services. The MassHealth agency **does not pay for the following services for any member, except when MassHealth determines the service to be medically necessary and the member is younger than 21 years old**. Prior authorization must be submitted for any medically necessary non-covered services for members younger than 21 years old.

(1) cosmetic services;

- (2) certain dentures including unilateral partials, overdentures and their attachments, temporary dentures, CuSil-type dentures, other dentures of specialized designs or techniques, and preformed dentures with mounted teeth (teeth that have been set in acrylic before the initial impressions);
- (3) counseling or member education services;
- (4) habit-breaking appliances;
- (5) **implants of any type or description;**
- (6) laminate veneers;
- (7) oral hygiene devices and appliances, dentifrices, and mouth rinses;
- (8) orthotic splints, including mandibular orthopedic repositioning appliances;
- (9) panoramic films for crowns, endodontics, periodontics, and interproximal caries;
- (10) root canals filled by silver point technique, or paste only;
- (11) tooth splinting for periodontal purposes; and
- (12) any other service not listed in Subchapter 6 of the Dental Manual

(C) Covered Services for All Members 21 Years of Age or Older. The MassHealth agency pays for the services listed in 130 CMR 420.422 through 420.456 for all members 21 years of age or older in accordance with the service descriptions and limitations set forth therein:

- (1) diagnostic services as described in 130 CMR 420.422;
- (2) radiographs as described in 130 CMR 420.423;
- (3) preventive services as described in 130 CMR 420.424;
- (4) restorative services as described in 130 CMR 420.425;
- (5) endodontic services as described in 130 CMR 420.426;
- (6) periodontal services as described in 130 CMR 420.427;
- (7) prosthodontic services as described in 130 CMR 420.428;
- (8) oral surgery services as described in 130 CMR 420.430;
- (9) anesthesia services as described in 130 CMR 420.452;
- (10) oral and maxillofacial surgery services as described in 130 CMR 420.453;
- (11) maxillofacial prosthetics as described in 130 CMR 420.455;
- (12) behavior management services as described in 130 CMR 420.456(B);
- (13) palliative treatment of dental pain or infection services as described in 130 CMR 420.456(C); and
- (14) house/facility call as described in 130 CMR 420.456(F).

(D) Non-covered Services for Members 21 Years of Age or Older. The MassHealth agency **does not pay for the following services for members 21 years of age or older:**

- (1) preventive services as described in 130 CMR 420.424(C);
 - (2) **prosthodontic services (fixed) as described in 130 CMR 420.429;** and
 - (3) other services as described in 130 CMR 420.456(A), (B), (E), and (F).
- (**Bolded** emphasis added.)

Regarding covered dental services, MassHealth's own dental regulations specifically indicate that implant work, which encompasses all the service codes on the March 28, 2022 denial notice appealed in this matter, are only covered for members who are younger than age 21. See 130 CMR 420.421(B)(5). Similarly, fixed bridgework, as described in 130 CMR 420.429, is also not covered

for MassHealth beneficiaries over the age of 21. See 130 CMR 420.021(D)(2) and 130 CMR 420.029(A).

420.429: Service Descriptions and Limitations: Prosthodontic Services (Fixed)

*(A) Fixed Partial Dentures/Bridges. The MassHealth agency pays for fixed partial dentures/ bridge for anterior teeth only for **members younger than 21 years old** with two or more missing permanent teeth. **The member must not have active periodontal disease and the prognosis for the life of the bridge and remaining dentition must be excellent.***

(**Bolded** emphasis added.)

Thus, if any portion of this request for bridgework and/or implants for the Appellant, who is in her 70s was directly made of the MassHealth, none of the services would be covered or even considered by the MassHealth program due to these restrictions.⁵ There is no need to analyze the MassHealth medical necessity regulation in 130 CMR 450.204 and make a determination about the need or appropriateness of the requested services if, by regulation, they are not covered. See 130 CMR 450.204(D). While the Appellant may have valid, rational, and sympathetic need for such service, those reasons unfortunately do not factor into this appeal analysis due to the non-covered nature of the requested services.

Even though a Medicaid beneficiary like Appellant over the age of 21 has no entitlement to consideration under the MassHealth Dental Program's regulations for this request, both the denial notice and testimony at hearing indicates that CCA has agreed to potentially cover some form of bridgework or implant services for its enrollees on a limited basis. In looking at CCA's decision, it is important to note that MassHealth's required covered services may set the floor or minimum of such benefits, but that CCA may choose to go above and beyond these required benefits, and offer more in dental services to its enrollees. However, since the additional services are not mandated by the state's Medicaid program, there is no entitlement to such a service. I thus find it unnecessary to look at a service that MassHealth wouldn't ordinarily cover and apply the other portions of the MassHealth medical necessity regulation regarding appropriateness, reasonableness, cost, and availability of other comparable services to determine whether CCA must cover it.

Instead, I conclude that CCA has the right to lay out and create its own standards for such additional optional benefits. If such standards of CCA are then applied properly, with no obvious bias or irrationality, then there will be great deference to the CCA program and its decisions. In this case, the CCA Representatives explained via sworn testimony that while CCA covers certain bridgework, for it to be considered, there must be sufficient bone support in the area in question in order to make the prognosis of success for the bridge realistic. This testimony is consistent with that standard cited for the bridgework in the denial paperwork. See Exhibit 5, pages 2 and 9.⁶ As to implants, CCA

⁵ As further support, neither of the two bridge-related service codes (D6245 and D6740) listed on the March 22, 2022 denial in Exhibit 5 or any of the six implant-related service codes (D0383, D6059, D6056, D6010, D4266, or D7953) appear anywhere in the MassHealth Dental Program's 194-page Office Reference Manual in Exhibit 7. Pages 73-194 of Exhibit 7 contain multiple pages filled with dozens, if not over a hundred, of possible Service Codes which are covered by the MassHealth program in some capacity.

⁶ The standard also appears medically sound and does not appear arbitrary, as the requirement of healthy remaining dentition is like the standard that MassHealth requires of beneficiaries under the age of 21 seeking such fixed

testified that it only considers implants for its enrollees in limited circumstances, such as when the implant is in the front part of the mouth and needed to support a full or partial denture. In Appellant's case, the implant request is not for a tooth or area in the front part of the mouth, and the request was not made in conjunction with a removable prosthetic (like a full or partial denture).

I thus find no reason or ability to reject the decision of CCA to deny the requested services. Appellant's medical conditions, age, and history, including her long-time use of her existing bridge, certainly make her request sympathetic and understandable. However, that history cannot factor into this analysis as there is no regulatory entitlement to consideration for either an implant or bridgework for a MassHealth member over the age of 21.

Based on the above, I find neither an entitlement nor any other reason which can allow me to conclude that any portion of the CCA decision is improper and should be reconsidered or overruled. Therefore, this appeal is DENIED.

Order for MassHealth/CCA

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

Christopher Taffe
Hearing Officer
Board of Hearings

cc: Appeals Coordinator @ Commonwealth Care Alliance

bridgework. See 130 CMR 420.029(A).