


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|---------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2203507 |
| Decision Date: | 7/19/2022 | Hearing Date: | 06/10/2022 |
| Hearing Officer: | Scott Bernard | | |

Appearance for Appellant:

 *via* telephone
(the appellant's representative) *via* telephone


Appearance for MassHealth:

Dr. Sheldon Sullaway *via* telephone



*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

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|---------------------------|-----------------------|--------------------------|---|
| Appeal Decision: | Denied | Issue: | Dental – Prior Authorization (PA) Prosthodontics (Removable) |
| Decision Date: | 7/19/2022 | Hearing Date: | 06/10/2022 |
| MassHealth’s Rep.: | Sheldon Sullaway, DMD | 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 April 29, 2022, MassHealth denied the appellant's PA request for upper and lower dentures because the services are allowed only once per 84 months. (See 130 CMR 420.428 and Exhibit (Ex.) 1; Ex. 4, p. 3). The appellant filed this appeal in a timely manner on May 9, 2022. (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 for upper and lower dentures because the services are only allowed once per 84 months.

Issue

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

Summary of Evidence

The MassHealth representative stated that he is a consultant with DentaQuest, the company contracted to make PA determinations for the MassHealth dental program. The MassHealth

representative has been a licensed dentist for over 40 years. The MassHealth representative stated that the appellant's dental provider submitted a PA request on the appellant's behalf on April 29, 2022. (Ex. 4, p. 4). The PA request was specifically for a complete upper denture¹ and complete lower denture². (Id.). The MassHealth representative stated that records show that on May 2, 2017 MassHealth paid for a complete set of dentures, which the appellant received. MassHealth regulations at 130 CMR 420.428(F)(5) state that MassHealth only pays for dentures for members once every 84 months or 7 years. For that reason, MassHealth denied the PA request on the same date. (Ex. 1; Ex. 4, p. 3). The MassHealth representative stated that the regulations and the MassHealth Dental Program Office Reference Manual (ORM) do contain criteria for requesting replacement dentures but the material the dental provider submitted with the PA request, which included a narrative from the provider, did not contain any explanation of the need for new dentures.

The appellant's representative testified that she had a letter written on April 29, 2022 by the insurance coordinator at the dental school where the appellant receives her dental care and which submitted the PA request. The letter, which the appellant's representative read, stated the following: "...I am writing as the insurance coordinator for this patient and to appeal the denial for [upper and lower dentures]. The patient is in need of the dentures because the prior dentures covered by insurance failed and did not fit. The patient needs dentures that fit well and properly work, so I am writing to make sure the insurance will cover the dentures. This letter will be attached to the prior authorization and the appeal. If you have any questions, please feel free reach out." The MassHealth representative stated that the letter read was not part of the materials that accompanied the PA request, but his decision nevertheless remained the same.³

The appellant and the appellant's representative stated that multiple dentists have attempted to make the old dentures fit but were not able to do so. The appellant and the appellant's representative stated that the appellant was not able to wear the dentures she received from MassHealth but choked when she tried eating food because she did not have teeth. The appellant and the appellant's representative stated that the appellant has ended up paying for a set of dentures and was hoping for reimbursement.

Findings of Fact

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

1. On May 2, 2016, MassHealth paid for a complete set of dentures, which the appellant received. (Testimony of the MassHealth representative).
2. On April 29, 2022, the appellant's dental provider submitted a PA request on the appellant's behalf for a complete set of upper and lower dentures. (Ex. 4, p. 4).
3. MassHealth denied the PA request on the same date because MassHealth only pays for

¹ Under Current Dental Terminology (CDT) code D5110.

² Under CDT code D5120.

³ The undersigned can confirm that this letter was not attached to the appeal request he received. (See Ex. 2).

dentures for members once every 84 months or 7 years. (Ex. 1; Ex. 4, p. 3; Testimony of the MassHealth representative).

4. The appellant is not able to use the dentures she received in 2016. (Testimony of the appellant's representative).
5. The appellant had a new set of dentures made, which she paid for. (Testimony of the appellant's representative).

Analysis and Conclusions of Law

The regulation concerning the service descriptions and limitations for removable prosthodontics is located at 130 CMR 420.428 and 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...**

...

(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;
- (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. (Emphases added).

A preponderance of the evidence does not support the PA request for replacement dentures. The record shows that on May 16, 2016, MassHealth paid for a complete set of dentures, which the appellant received. The record further shows that the appellant, through her dental provider,

submitted a PA request for a complete set of dentures on April 29, 2022. April 29, 2022 was only 71 months and one week or five years, 11 months, and 14 days after May 16, 2016. This is less than 84 months or seven years and therefore the denial is proper, unless the appellant is able to demonstrate one of the conditions in 130 CMR 420.428(F) applies. The appellant and her representative asserted that multiple dentists attempted to make the dentures fit but could not do so. The appellant and her representative, however, did not submit any evidence documenting what was attempted and when those attempts were made. The appellant's representative did read a letter from the insurance coordinator of the appellant's dental office into the record, but this only stated that the appellant cannot use her dentures. The appellant has not submitted evidence sufficient for this hearing officer to overrule MassHealth determination denying the request for replacement dentures less than 84 months after it paid for the prior set of dentures.⁴

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

Scott Bernard
Hearing Officer
Board of Hearings

cc:

DentaQuest 1, MA

⁴ As for the set of dentures the appellant stated that she has paid for out of pocket, the dental provider may be in violation of 130 CMR 450.238. 130 CMR 450.238(A) states that all providers are subject to the rules, regulations, standards, and laws governing MassHealth and violation of those rules, regulations, standards, and laws could result in sanction. 130 CMR 450.238(B)(10) specifically lists billing a member for services that are payable under MassHealth, except copayments, as a violation of MassHealth rules, regulations, standards, and laws. The appellant may wish to report the provider to MassHealth concerning this.