

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	APPROVED IN PART; DISMISSED IN PART	Appeal Number:	2203569
Decision Date:	6/30/2022	Hearing Date:	06/17/2022
Hearing Officer:	Christopher Taffe	Record Open to:	06/17/2022

Appearance for Appellant:
Appellant, pro se (by phone)

Appearance for MassHealth:
Cynthia Yered, DMD, on behalf of
DentaQuest Dental Service (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:	APPROVED IN PART; DISMISSED IN PART	Issue:	PA – Dental – Denture Request
Decision Date:	6/30/2022	Hearing Date:	06/17/2022
MassHealth's Rep.:	C. Yered, DMD	Appellant's Rep.:	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 on or around April 12, 2022, MassHealth, via its agent and dental contractor DentaQuest, denied Appellant's Prior Authorization ("PA") request (PA # 202210200399900) for a partial upper denture (under Service Code D5211) and a separate PA request (#202210200396100) for a partial lower denture because of alleged benefit service limitations. See Exhibits 1; 2, and 4; 130 CMR 610.028. Appellant filed a timely request for an appeal telephonically with the MassHealth agency on May 11, 2022. See 130 CMR 610.015(B) and Exhibit 1. Challenging the denial of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's requests for a partial upper denture and partial lower denture based on program restrictions.

Issue

The appeal issues are (1) what is Appellant seeking in terms of dentures and (2) are there any grounds or evidence in the record to support the MassHealth decision in this matter.

Summary of Evidence

Appellant is a [REDACTED] MassHealth member. MassHealth was represented at hearing by Dr. Yered, a dentist consultant for DentaQuest, the entity that has contracted with MassHealth agency to administer the agency's dental program for MassHealth members. All parties testified telephonically.

The record in Exhibit 1 indicates that Appellant's dentist at New England Family Dentistry of Lynn, Mass. submitted two PA requests on April 12, 2022 which collectively sought approval from MassHealth for both a partial upper denture and a partial lower denture.¹ MassHealth denied both of these PA requests on the grounds that two partial dentures had been approved for both jaws for this member on October 4, 2021, and that the dentures had been provided to Appellant via a MassHealth provider named Dr. Funke Osineye.

Appellant stated that she had no idea who Dr. Funke Osineye was and did not believe that dentist was at New England Family Dentistry where she received her MassHealth services; she did admit that the dental practice appears to be one where there are various dentists and many different ones may have seen her over the years there.

Dr. Yered does not have access to the computer system showing dental claims for this member, but indicated that this information, found on the first page of Exhibit 4, was all the information she had at hearing. Dr. Yered explained that, once approved, MassHealth generally won't replace a denture that is less than 7 years old, unless there is some exceptional or extraordinary circumstances.

Appellant raised further questions about the MassHealth records at hearing, as she stated that she has never had, and does not want or need, a lower partial denture. She testified that she is missing only one lower tooth in the back part of the ,² and that she filed this appeal because she only wants a partial upper denture. She is not sure why there was a PA request seeking a lower denture. Furthermore, as to the upper denture, Appellant indicated that she has never requested an upper partial denture before with her current dentist at New England Family Dentistry, or with any other dentist. She has never had an upper partial denture, and the records in Exhibit 4, supplied by DentaQuest for hearing, have four pages of unnamed³ x-rays showing missing bottom teeth and a full set of upper posterior teeth. Appellant indicated she was not sure why she was denied for this inaccurate statement about her dental history; Exhibit 1 indicates that,

¹ The individual dentist on the PA form on behalf of the dental business is Dr. Navej Kang. See Exhibit 1 and Exhibit 4, page 4.

² The testimony is a bit unclear whether this lower tooth was extracted or is partially there and needed or had crown service. Regardless of the history, Appellant was clear that she did not ask for and does not want a lower partial denture, so this factual mystery is irrelevant. A partial denture is not usually requested or allowed to replace or address one missing posterior tooth in a jaw. See 130 CMR 420.428(E), discussed later.

³ Based on Appellant's testimony, these x-rays of the lower jaw are clearly not Appellant's. It is unclear whether MassHealth forwarded the wrong lower jaw x-rays or whether the provider submitted the wrong lower x-rays to MassHealth/DentaQuest, who in turn then passed them on to the Hearing Officer for the record. See Exhibit 4, pages 6-9. DentaQuest only submitted the PA for the lower partial denture in Exhibit 4, so there is no way for the Hearing Officer to determine whether the x-rays for the upper teeth were properly submitted or whether they belong to Appellant.

when making her request for a hearing over the phone, the reason for the appeal was “[Member] states that denture was never received and she never had dentures.” See Exhibit 1.

As DentaQuest did not send someone who could opine or explain the dental history of Appellant, the Hearing Officer offered to look into this matter, and on the hearing date, the Hearing Officer received from the Board of Hearings (BOH) staff a printout (marked as Exhibit 5) showing Appellant’s history of Prior Authorizations with the MassHealth dental program.⁴

Exhibit 5 shows that Appellant has submitted four PA’s since 2021. The first two involved claims for periodontal screening for all four quadrants of Appellant’s mouth, all of which were approved in May of 2021. The next two PA’s are the April 2022 requests for the upper partial denture and the upper lower denture from the current dentist which are the appealable action here. There is no history in the system records in Exhibit 5 indicating that Appellant ever had any denture requested or approved in calendar year 2021 (from Dr. Tobias Funke or any other dentist), which is consistent with Appellant’s testimony.⁵

Findings of Fact

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

1. On April 12, 2022, Appellant’s dental provider submitted two PA requests on Appellant’s behalf for both an upper partial denture and a lower partial denture. (Testimony and Exhibits 1, 4 and 5)
2. MassHealth denied the PA request for a lower partial denture. (Testimony and Exhibits 1, 4 and 5)

⁴ The Board of Hearings has administrative access to this limited information to allow BOH to ascertain jurisdiction for those dental appeals when the appealable notice is not included or submitted with the appeal request. This allows BOH to, for example, properly decide whether an appeal is timely and substantively in the right forum. In this appeal alone, some of the documentation within Exhibit 1 evidencing the April 2022 denial notices were not produced by either party but were instead produced by the Board of Hearings shortly after the appeal request was received. As the Appellant submitted her request for a Fair Hearing over the phone in compliance with an option given to her by federal law, there is no way for the Appellant to physically submit or evidence a hard copy of the paper with the appealable action (denial notice) during such phone call. BOH customarily produces such notices for the administrative record to make things more efficient or quicker for both parties and the hearing process; I thus find no issue with expanding the record to accept Exhibit 5 and assist with the factfinder process and duties required of this appeal, especially since DentaQuest sent a dentist, and not someone who could speak to the historical claim process for this Appellant in this type of appeal.

⁵ Like MassHealth, the submitting provider also made error which likely contributed to creating this administratively confusing record, in that, this Appellant does not want or need a lower partial denture so why the provider submitted a request for a lower partial denture is almost certainly a careless record error based on Appellant’s testimony. See Exhibit 4, page 4. In light of this error, it’s also possible and likely that Appellant’s provider submitted the incorrect x-rays that appear in the record, as they do not belong to Appellant. See fn. 3, *supra*.

Interestingly even though the Board of Hearings informed DentaQuest that there were two PA’s at issue in this appeal - see Exhibit 4, page 5 - DentaQuest only produced information related to one PA (the one involving the lower partial denture) – see Exhibit 4, pages 3-4 and 6-9. This incomplete submission from DentaQuest did not do much to help resolve the situation, and necessitates the action discussed in fn. 4, *supra*.

- a. Appellant does not want a partial lower denture, as she is missing no more than one tooth in that jaw. (Testimony)
 - b. Appellant verified that she is not appealing the denial of a lower denture. (Testimony)
- 3. Appellant is currently seeking a partial upper denture for some missing upper teeth.⁶ (Testimony and Exhibits 1, 4, and 5)
- 4. DentaQuest denied the request for the upper partial denture on the grounds that Appellant received a partial upper denture (and a partial lower denture) from a dentist in December of 2021. (Testimony and Exhibit 4)
 - a. The DentaQuest basis for the denial is based on an inaccurate fact and presumption. (Testimony and Exhibits 1, 4 and 5)
 - b. DentaQuest's own records show that Appellant's only PA requests in calendar year 2021 were for periodontal screening. There is no history showing any denture request or approval from calendar year 2021 for Appellant. (Exhibit 5)
 - i. Appellant has never had a denture before, nor does she know or recognize the name of the dentist from whom DentaQuest alleges she received a denture in 2021. (Testimony)
 - ii. DentaQuest did not submit any records for the hearing verifying the alleged dentures approved for this Appellant in calendar year 2021. (Exhibit 4)
 - c. DentaQuest did not submit to the Hearing Officer the prior authorization documents related to the request for the upper partial denture, despite being notified of the two PA requests appealed by this Appellant. (Exhibits 4 and 5)

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the Prior Authorization requirements at 130 CMR 420.410 et seq.,⁷

⁶ Because DentaQuest submitted no evidence on the PA for the upper partial denture, the Hearing Officer did not see this note about the request until post-hearing. The note in Exhibit 5 says that Appellant "had teeth 3 and 13 extracted on March 8th 2022". See Exhibit 5, pages for PA # 2022102003999900. This is consistent with Appellant's testimony, although the exact upper teeth missing were neither confirmed nor discussed at hearing.

⁷ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual ("Dental ORM" or "Dental Office Reference Manual") publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent

covered services for certain dental treatments, including removable prosthodontic devices such as dentures, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.428 contains the relevant description and limitation for prosthodontic devices like those dentures at issue in this appeal, including specific sections regarding replacement request for such dentures. That regulation reads in relevant part 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.

...

(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis, and there is a favorable prognosis for treatment outcome. A tooth is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.

(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;**

state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on June 21, 2022).

- (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.*

(Bolded emphasis added.)

130 CMR 450.204 speaks to the medical necessity issue for all MassHealth providers. 130 CMR 450.204 reads in relevant part as follows:

450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(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: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

...

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(Bolded emphasis added.)

The above regulations in 130 CMR 420.428(A) through (G) lay out the framework for denture benefits for MassHealth beneficiaries and their possible replacement and repair. There is clearly a rule that partial or full dentures may typically only be allowed or covered once per member per every seven years and, because DentaQuest had records indicating an upper partial denture for Appellant was provided in December 2021, that was the basis for the denial leading to this appeal.

What the record reveals however is that the DentaQuest research or assumption in this case about

the upper partial denture history is incomplete and incorrect. Appellant testified that she never had a denture, and that she did not get one in December of last year. More importantly, the records from the DentaQuest portal in Exhibit 5 confirm this sworn testimony of the Appellant. The only claims or prior authorizations she had in calendar year 2021 was for some periodontal cleaning. See Exhibit 5. Exhibit 5 also indicates that Appellant is missing two posterior molars, which is consistent with the Appellant's testimony about the need for a partial upper denture. More importantly, there is also no evidence of a partial denture request (or any type of denture) before the April 2022 submission. See id. DentaQuest also did not submit as part of Exhibit 4, the PA request from the dentist for the upper partial denture, despite being told that there were two PA's at issue in this appeal. Compare Exhibit 4, page 5, with Exhibit 4 pages 3-4, 6-9 (containing only documents on the PA request for the lower partial denture).

Based on the above, I find no support in the record to deny this request for an initial upper partial denture for the Appellant. This portion of the request is APPROVED IN PART as the agency did not offer a coherent or logical reason for the denial, nor did the agency provide proof of the alleged history or sufficient documentation for the Hearing Officer and DentaQuest consultant to review the request on more substantive grounds.

As to the other portion of the PA request, the history or dispute about the lower partial denture is even more confusing. The Appellant testified that she neither needs nor wants a lower partial denture. Appellant's dentist clearly erred with this submission. This almost certainly played a role in some of the confusion over the entire denial of the PA by DentaQuest. Regardless, neither side wants approval of this lower partial denture to be given, so this portion of the request is DISMISSED IN PART.

Order for MassHealth/DentaQuest

Rescind the April 2022 PA notice for #202210200399900 as to the upper partial denture and approve the request under Service Code D5211. Send an approval notice to Appellant and his dental provider for this upper partial denture service D5211 as soon as possible and no later than 30 days from the date of the decision.

Do not approve any portion of any PA request for a lower partial denture for this member.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact the MassHealth Dental Program through MassHealth Customer Service.⁸ 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.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: DentaQuest

⁸ The direct Customer Service number for DentaQuest for MassHealth members is 1-800-207-5019. The general number for MassHealth Customer Service is 1-800-841-2900.