

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2204503
<b>Decision Date:</b>	8/16/2022	<b>Hearing Date:</b>	07/22/2022
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**

, daughter

**Appearance for MassHealth:**

Dr. Sheldon Sullaway, DentaQuest rep.



*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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	PA – complete upper denture
<b>Decision Date:</b>	8/16/2022	<b>Hearing Date:</b>	07/22/2022
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	daughter
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	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 May 26, 2022, MassHealth denied appellant's prior authorization request for a complete upper denture (Procedure D5110) (Exhibit 1). The appellant filed this appeal in a timely manner on June 15, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Challenging a prior authorization request for an upper denture is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied appellant's prior authorization request for a complete upper denture.

## Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization request for a complete upper denture.

## Summary of Evidence

The MassHealth representative that appeared telephonically at hearing testified to the following: he has been practicing dental medicine for 40 years and is a Professor at Tufts University. On May 26,

2022 MassHealth received a prior authorization request for procedure D5110, a complete upper denture. The request was denied that same day as the service is allowed only once per every 7 years according to 130 CMR 420.428(F)(5). The appellant's provider never submitted a narrative as required per the Office Reference Manual for dental providers. The appellant lost her current denture in the hospital, and it is MassHealth's position that the hospital should be responsible for the loss and replacement of the denture, not MassHealth. Pursuant to 130 CMR 420.428(A) a patient is responsible for the care of the denture after insertion. MassHealth paid for a denture for appellant on October 31, 2019 which is within the 7-year window (Exhibit 6). The MassHealth representative further stated that this does not fall under the exception at 130 CMR 420.428(F)(8) as the loss was not due to an extraordinary circumstance.

The appellant was represented by her daughter who appeared by telephone. The appellant's daughter stated that her mother was sent to the hospital due to a large blood blister in her mouth. The hospital denied taking the denture out of her mouth, however, appellant had her denture prior to the admission. The nursing home had taken a picture of her mouth before sending her to the hospital. The appellant's daughter has called patient relations, the attorney general's office as well as the ombudsman to no avail. The ombudsman told appellant's daughter that this happens all the time, but she cannot help appellant. She is heartbroken as her mother, who is in her nineties, asks her where her teeth are. The appellant has no money to pay for her dentures.

## **Findings of Fact**

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

1. On May 26, 2022 MassHealth received a prior authorization request for procedure D5110, a complete upper denture.
2. MassHealth denied the denture on May 26, 2022.
3. MassHealth paid for a denture for appellant on October 31, 2019.
4. Appellant's denture was lost while she was receiving medical care at a hospital.
5. The appellant's daughter contacted the hospital and local authorities to try to get replacement dentures for appellant.

## **Analysis and Conclusions of Law**

The relevant regulation which pertains to the replacement of removable dentures states that the MassHealth agency pays for dentures once per seven calendar years per member (130 CMR 420.428(A)). In addition, the regulation states the member is responsible for all denture care and maintenance following insertion (130 CMR 420.428(A)). The appellant had dentures paid for by MassHealth on October 31, 2019 which is within the seven-year window. The replacement of dentures within that seven-year period is allowed in the following circumstances:

(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, 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.***

(Emphasis added. 130 CMR 420.428(F)). The replacement of the denture does not fall within 1 to 7 above. The question then is whether the loss of the denture was due to an extraordinary circumstance such as a fire in the home. The appellant's daughter's testimony is credible. Appellant's dentures were lost by a third party. The appellant's daughter took appropriate action to try to retrieve the dentures from the hospital to no avail. I find that the loss of the denture in this case is due to an extraordinary circumstance. A patient does not have full control over their belongings and is distracted by other pressing health care matters while at a hospital. While it is unclear whether appellant had a procedure performed or was admitted to the hospital, it is more than likely that she was asked to remove her denture while the hospital staff was examining her mouth. Based on the foregoing reasons this appeal is APPROVED.

## **Order for MassHealth**

Rescind notice dated May 26, 2022 and approve D5110 (complete upper denture).

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

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Radha Tilva  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

Appellant Representative: 