

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2205137
Decision Date:	10/3/2022	Hearing Date:	09/27/2022
Hearing Officer:	Kenneth Brodzinski		

Appearance for Appellant:

[REDACTED] (brother) with [REDACTED]
(mother)

Appearance for MassHealth:

Dr. Robert Nersasian



*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 - Dental
Decision Date:	10/3/2022	Hearing Date:	09/27/2022
MassHealth's Rep.:	Dr. Robert Nersasian	Appellant's Rep.:	Brother
Hearing Location:	Quincy		

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 June 14, 2022, MassHealth denied Appellant's request for prior authorization (PA) for dental implants (Exhibit A). Appellant filed this appeal in a timely manner on July 11, 2022 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization for dental implants.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied Appellant's request for prior authorization for dental implants.

Summary of Evidence

Both parties appeared by telephone. MassHealth submitted a copy of the written prior authorization request (Exhibit B). Appellant filed a hand-written letter along with his Fair Hearing Request (Exhibit A).

At the outset of the hearing, Appellant's representative (his mother) authorized her son, (Appellant's brother) to appear on Appellant's behalf.

MassHealth was represented by an oral surgeon who testified that Appellant's dental provider submitted a written prior authorization request seeking dental implants for teeth numbers 7 and 10. The MassHealth representative testified that pursuant to regulation, MassHealth does not cover dental implants of any kind.

The hearing officer questioned the MassHealth representative as to the exception allowing implants for members under the age of ■ and asked if Appellant is under the age of ■. In response, The MassHealth representative stated that while Appellant is under the age of ■, the PA request contained no information concerning an **EPSDT (*Early and Periodic Screening, Diagnostic and Treatment*)** diagnosis.

Appellant's brother testified that he thought the implants should be approved because they are not for cosmetic purposes. Appellant's brother testified that Appellant has had many problems since birth. According to the brother, Appellant is autistic with Asperger's and is prone to anxiety attacks. Appellant received 3 years of orthodontic treatment covered by MassHealth. During treatment, Appellant's mother was told that Appellant was congenitally missing two anterior teeth. The orthodontic treatment anticipated replacing the two missing teeth and made adequate spaces for them. According to the brother, the orthodontist said the teeth would be replaced because it was not simply a matter of cosmetics because the lower teeth needed opposing teeth and the unfilled space would lead to the teeth shifting and tooth loss.

Appellant's brother also testified that Appellant has been bullied at school because of his looks including his two missing teeth. According to the brother, this has had a significant negative impact on Appellant's mental health.

Both the hearing officer and the MassHealth representative asked whether a partial denture had been considered. In response, the brother testified that a partial would not likely work because of Appellant's diagnoses. The brother expressed doubt over Appellant's ability to keep the dentures secure and whether he would even keep them in his mouth due to anxiety and sensory issues.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following:

1. Appellant's dental provider submitted a written prior authorization request seeking dental implants for teeth numbers 7 and 10.
2. Appellant is under the age of [REDACTED].
3. The subject PA request does not contain a EPSDT diagnosis or information concerning Appellant's coverage type.

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

MassHealth regulation 130 CMR 420.421 identifies "covered" and "non-covered" dental services. Subsection 420.421(B)(5) specifically identifies "*implants of any type or description*" as a "non-covered" service.

However, subsection 420.421(B) contains an exception for non-covered services that are nevertheless "*medically necessary*" for members, such as Appellant, who are under the age of 21.

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.

(130 CMR 420.421(B)) (emphasis supplied)

For the purposes of obtaining prior authorization for an otherwise non-covered service, "*medically necessary*" is defined by regulation as follows:

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.

(130 CMR 420.421(A)) (emphasis supplied)

Pursuant to 130 CMR 420.408 (emphasis supplied):

***Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services.** The MassHealth agency pays for all medically necessary **dental** services for EPSDT-eligible members in accordance with 130 CMR 450.140: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction, without regard to service limitations described in 130 CMR 420.000, and with prior authorization.*

Pursuant to 130 CMR 450.144 (emphasis supplied):

EPSDT Services: Diagnosis and Treatment (A)(1) EPSDT diagnosis and treatment services consist of all medically necessary services listed in 1905(a) of the Social Security Act (42 U.S.C. 1396d(a) and (r)) that are (a) needed to correct or ameliorate physical or mental illnesses and conditions discovered by a screening, whether or not such services are covered under the State Plan; and (b) payable for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, if the service is determined by the MassHealth agency to be medically necessary. (2) To receive payment for any service described in 130 CMR 450.144(A)(1) that is not specifically included as a covered service under any MassHealth regulation, service code list, or contract, the requester must submit a request for prior authorization in accordance with 130 CMR 450.303.

This request must include, without limitation, a letter and supporting documentation from a MassHealth-enrolled physician, physician assistant, certified nurse practitioner, certified nurse midwife, or certified clinical nurse specialist documenting the medical need for the requested service. If the MassHealth agency approves such a request for service for which there is no established payment rate, the MassHealth agency will establish the appropriate payment rate for such service on an individual-consideration basis in accordance with 130 CMR 450.271.

In Summary – in denying the PA request, MassHealth correctly applied the controlling regulation because dental implants are a non-covered service. The exception that may be available to Appellant as a member under the age of ■ has not been established through the subject PA.

At hearing, a hand-written letter signed by Appellant's mother was filed with the Fair Hearing

Request and Appellant's brother provided testimony.¹ The information asserted by both of these sources must come from Appellant's medical and dental providers in a properly completed and filed prior authorization request in order to verify the need for the requested implants relative to Appellant's physical and mental health as described above.

For the foregoing reasons, the appeal is denied.

Appellant may wish to file a new PA request for the two implants. A new PA request should assert Appellant's eligibility for EPSTD services (Appellant would need to be covered by either MassHealth Standard or CommonHealth).

Appellant would then need to have the PA request establish medical necessity as described above as well as any additional requirements not listed here. This can be determined through consultation between Appellant's dental provider and the MassHealth Prior Authorization Dental Unit.

Order for MassHealth

None.

¹ A letter from 2018 signed by a behavioral clinician concerning Appellant being bullied at school was also submitted with Appellant's Fair Hearing Request (Exhibit A). This letter was not commented upon during the hearing. While it was reviewed by the Hearing Officer, it was deemed out of date. Additionally, the letter did not specifically discuss Appellant's dental condition or relate it in any way to his physical and/or mental health or the particular problem of school bullying that was being experienced in 2018.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA