

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2205710

Decision Date: 9/27/2022

Hearing Date: 09/02/2022

Hearing Officer: Alexis Demirjian

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Michael Jacques



*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:	Fluoride Treatment
Decision Date:	9/27/2022	Hearing Date:	09/02/2022
MassHealth's Rep.:	Dr. Michael Jacques	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 1 Remote	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 July 19, 2022, MassHealth denied the appellant's request for service D1208, fluoride treatment applied to all the Appellant's teeth. (see 130 CMR 420.424 and Exhibit 2). The appellant filed this appeal in a timely manner on August 11, 2022. (see 130 CMR 420.425 and Exhibit 2).^{1 2} Challenging the denial of assistance is valid grounds for appeal to the Board of Hearings. (see 130 CMR 610.032).

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, and restated in MassHealth Operations Memo (EOM) 20-10 dated August 1, 2022, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

² The Appellant's Request for Fair Hearing indicated that the Appellant sought a hearing because she needed a new upper denture. It was explained to the Appellant that the subject of the appeal was based on the denial of the fluoride treatment and that there was no evidence in the record regarding a pre-authorization for an upper denture. The Appellant indicated she understood and wished to proceed with the appeal of the denial of the fluoride treatment.

Action Taken by MassHealth

MassHealth denied Appellant's request for approval of fluoride treatment.

Summary of Evidence

Appellant is a MassHealth member over the age of 21 who represented herself at hearing. MassHealth was represented at hearing by Dr. Jacques, as a consultant for DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Jacques testified that on or about July 18, 2022, the Appellant's dentist submitted a request for service for D1208, specifically fluoride treatment applied to all the Appellant's teeth

Dr. Jacques explained that MassHealth has set an objective standard, found within the MassHealth Office Reference Manual for Dental Providers, hereinafter referred to as the "Office Reference Manual", that determines whether the requested treatment of fluoride treatment should be approved for members over the age of 21. The Office Reference Manual provides that the service may be authorized for members who have a medical or dental conditions that significantly interrupts the flow of saliva. MassHealth requires that the dentist include a medical necessity form be submitted with the prior authorization for the service explaining why the procedure is necessary and detailing the medical and/or dental condition.

Dr. Jacques testified that the Appellant's dentist did not include a medical necessity narrative, but did include the following in the remarks section of the authorization, "patient has diagnosis of COPD, Hepatitis, Anemia. Patient has symptoms of xerostomia, soft plaque, recession. The application of Fluoride with her dental cleanings is recommended." Dr. Jacques testified that there is not sufficient evidence to determine whether the fluoride treatment is a medical necessity because the treating dentist did not explain which medical diagnosis was the cause of the xerostomia. Dr. Jacques noted that some medications have the known side effects of xerostomia, but nothing in the record indicates that the Appellant takes one of those medications.

The Appellant testified that she does not recall which medications she takes for her medical conditions. The Appellant testified that in addition to the medical diagnosis listed by her treating dentist, she also has diabetes. The Appellant testified that she suffers from an extremely "dry mouth", which is the symptom of xerostomia.

Findings of Fact

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

1. On or about July 18, 2022, the Appellant's dentist submitted a request for service for D1208,

specifically fluoride treatment applied to all the Appellant's teeth. (Testimony and Exhibit 3)

2. The Appellant has the medical diagnosis of Hepatitis, Anemia, COPD and Diabetes. (Testimony and Exhibit 3)

3. The Appellant testified that she suffers from an extremely dry mouth. (Testimony)

4. The Appellant's dentist did not submit a medical necessity narrative. (Testimony and Exhibit 3)

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.,³ covered services for certain dental treatments, including fluoride treatments, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C). 130 CMR 420.425 contains the relevant description and limitations for restorative services including crowns. As to crown requests for members over the age of 21, that regulation reads in relevant part as follows:

420.424 : Service Descriptions and Limitations: Preventative Services ...

(B) Fluoride.

(1) Topical Fluoride Treatment.

(b) Members 21 Years of Age or Older. The MassHealth agency pays for topical fluoride only for members who have medical or dental conditions that significantly interrupt the flow of saliva. Providers must submit a prior authorizations request for this treatment for members 21 years of age or older.

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

³ 130 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 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 September 12, 2022).

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 Dental ORM which is incorporated and referenced by earlier parts of the MassHealth Dental Regulations, see e.g., 130 CMR 420.410(A) through (C). The Dental ORM contains many of the detailed standards and guidelines in a format created for all MassHealth dental providers.

The Dental ORM, Exhibit B, provides that topical application of fluoride may be allowed for members 21 years and older who have medical/dental conditions that significantly interrupt the flow of saliva. It further requires that the dentist include a narrative of medical necessity with the preauthorization.

The Appellant credibly testified that she has numerous medical conditions and experiences dry mouth. The record however does not include sufficient evidence that her medical diagnoses are the cause of her xerostomia.

The regulation clearly states that MassHealth will only pay for D1208 service, fluoride treatment, for members over the age of 21 who have a medical or dental conditions that significantly interrupt the flow of saliva. Additionally, MassHealth requires that the dentist include a medical necessity form be submitted with the prior authorization for the service explaining why the procedure is necessary.

MassHealth does not pay for services that are not medically necessary. Unfortunately, without proper documentation that the Appellant has a medical or dental condition that significantly interrupts the flow of saliva, I cannot find that the procedure is a medical necessity. For those reasons the MassHealth decision shall not be disturbed, and 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.

Alexis Demirjian
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA