

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2206120

Decision Date: 2/3/2023

Hearing Date: 11/29/2022

Hearing Officer: Marc Tonaszuck

Record Open to: 02/03/2023

Appearance for Appellant:



Appearance for MassHealth:

Dr. Robert Nsercian, DentaQuest



*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:	Dental
Decision Date:	2/3/2023	Hearing Date:	11/29/2022
MassHealth's Rep.:	Dr. Robert Nsercian, DentaQuest	Appellant's Rep.:	Guardian
Hearing Location:	Quincy Harbor South		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30 and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 07/13/2022, MassHealth informed the appellant that it denied her request for a surgical dental implant and bone graft for teeth numbers 6 and 12 (Exhibit 1). The appellant filed this appeal with the Board of Hearings in a timely manner on 08/19/2023 (130 CMR 610.015(B); Exhibit 2).

A fair hearing was scheduled to take place on 10/18/2022; however, it was rescheduled on request of the appellant's guardian so that documentation could be collected (Exhibit 3A). The fair hearing took place on 11/29/2022 (Exhibit 3B).

The appellant requested an opportunity to provide additional evidence in support of her request. The record remained open for her submission until 01/20/2023 and for DentaQuest's response until 02/13/2023 (Exhibit 5). The appellant did not make a submission during the record open period.

Action Taken by MassHealth

MassHealth denied the appellant's request for a surgical dental implant and bone replacement graft on teeth numbers 6 and 12.

Issue

MassHealth correct in denying the appellant's request for a surgical dental implant and a bone replacement graft on teeth numbers 6 and 12?

Summary of Evidence

Dr. Robert Nsercian, an oral surgeon practicing in Massachusetts, testified on behalf of DentaQuest that the appellant is a MassHealth member and that on 07/13/2022, the appellant's dental provider, Dr. Green, submitted a prior authorization request for dental implants and bone grafts for teeth numbers 6 and 12. MassHealth denied the request on 07/13/2022 because dental implants and associated services like bone grafts are a non-covered service. Dr. Nsercian testified that MassHealth does not cover dental implants.

The appellant's guardian appeared at the fair hearing and testified with the assistance of Melanie McLawson, an advocate. The guardian testified that she believes that MassHealth covers dental implants for children under 21. In this case, the appellant suffered from a situation before the age of 21 that caused the need for the dental implants.

Dr. Nsercian responded that MassHealth does not cover dental implants for any age member.

The appellant's guardian requested an opportunity to provide documentation showing that the appellant is eligible for dental implants and bone grafts. Her request was granted, and the record remained open for her submission until 01/20/2023 until 02/03/2023 for MassHealth's response. The appellant did not make a submission during the record open period.

Findings of Fact

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

1. The appellant is a MassHealth member and is between the ages of 19 and 64 (Testimony).

2. On 07/13/2022, the appellant's dental provider submitted a request to MassHealth for a treatment plan for dental implants and bone grafts for teeth numbers 6 and 12 (Testimony; Exhibit 4).
3. On 07/13/2022, MassHealth denied the request for dental implants and bone grafts for teeth numbers 6 and 12 (Testimony; Exhibit 4).
4. On 08/19/2022, appellant appealed MassHealth's denial to the Board of Hearings (Testimony; Exhibit 2).
5. A fair hearing was scheduled to take place on 10/18/2022; however, it was rescheduled on request of the appellant's guardian so that documentation could be collected and submitted (Exhibit 3A). The fair hearing took place on 11/29/2022 (Exhibit 3B)
6. At the fair hearing, the appellant's representative requested an opportunity to provide additional evidence in support of her request. The record remained open for her submission until 01/20/2023 and for DentaQuest's response until 02/13/2023 (Exhibit 5). The appellant did not make a submission during the record open period.

Analysis and Conclusions of Law

MassHealth dental provider regulations at 130 CMR 420.421(B) address noncovered services as follows:

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 under age 21. Prior authorization must be submitted for any medically necessary noncovered services for members under age 21.

- (1) cosmetic services;
- (2) certain dentures including unilateral partials, overdentures and their attachments, temporary dentures, CuSil-type dentures, other dentures of specialized designs or techniques, and preformed dentures with mounted teeth (teeth that have been set in acrylic before the initial impressions);
- (3) counseling or member-education services;
- (4) habit-breaking appliances;
- (5) implants of any type or description;**
- (6) laminate veneers;
- (7) oral hygiene devices and appliances, dentifrices, and mouth rinses;
- (8) orthotic splints, including mandibular orthopedic repositioning appliances;
- (9) panoramic films for crowns, endodontics, periodontics, and interproximal caries;
- (10) root canals filled by silver point technique, or paste only;
- (11) tooth splinting for periodontal purposes; and

(12) any other service not listed in Subchapter 6 of the *Dental Manual*.

(Emphasis added.)

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333 , 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386 , 390 (1998).

The appellant, a MassHealth member requested dental implants and bone grafts for teeth numbers 6 and 12. MassHealth denied the request because it is a non-covered service. The appellant's representative testified that MassHealth regulations require that implants be provided for members under 21 years of age and that although the appellant is significantly older than 21 years of age, the situation that gave rise to the need for the implants occurred before she turned 21. The appellant's representative provided no regulatory support for the appellant's argument. She requested an opportunity to provide to the hearing officer support for her appeal; however, she made no submission during the record open period.

MassHealth's denial of the dental implants and bone grafts for teeth numbers 6 and 12 is supported by the regulations above and the relevant facts of this case. Accordingly, the above regulation applies and MassHealth correctly denied the dental implants and bone grafts, as they are specifically non-covered services. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer

Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

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