

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2206511

Decision Date: 10/20/2022

Hearing Date: 10/07/2022

Hearing Officer: Alexis Demirjian

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway



*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:	Dentures
Decision Date:	10/20/2022	Hearing Date:	10/07/2022
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 4 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 August 18, 2022, MassHealth denied the appellant's authorization request for a full maxillary (upper) denture because MassHealth determined that the appellant had received a full maxillary denture paid for by MassHealth within 84 months. (see 130 CMR 420.428 (F) and Exhibit 2). The appellant filed this appeal in a timely manner on June 30, 2002, (see 130 CMR 610.015(B) and Exhibit 3).¹ Denial of assistance is valid grounds for appeal before the Board of Hearings. (see 130 CMR 610.032).

Action Taken by MassHealth

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.

MassHealth denied the appellant's authorization request for a full maxillary (upper) denture.

Issue

The appeal issue is whether MassHealth was correct in denying prior authorization request for a full maxillary (upper) denture.

Summary of Evidence

On August 17, 2022, MassHealth received a prior authorization request for complete maxillary (upper). The request was received and reviewed by DentaQuest Dental on behalf of MassHealth. The MassHealth representative stated that pursuant to MassHealth regulations at 130 CMR 420.428(A), MassHealth only pays for dentures once every 84 months, or 7 years. The MassHealth representative stated that because MassHealth paid for the appellant's partial upper dentures less than 7 years ago, the request for replacement dentures was denied pursuant that regulation.

The Appellant testified that he had an upper denture made on or about November 2018, less than 84 months from the date of the prior authorization at issue in this appeal. The Appellant testified that he believed his former girlfriend stole the upper dentures and that he was having trouble chewing food without the upper denture. In his request for Fair Hearing, the Appellant indicated that the reason he needed a replacement denture was because he "accidentally" threw the dentures "out on a food tray." See Exhibit 3. The Appellant was asked questioned about the difference between the two accounts of how he lost his dentures. In response to direct questioning by the Hearing Officer, the Appellant testified that he can not be sure how he lost the dentures.

In response to the Appellant's testimony, the MassHealth representative testified that the regulations require that members must take all possible steps to prevent the loss of the member's dentures.

Findings of Fact

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

1. On August 17, 2022, the Appellant's dentist submitted a request for preauthorization for a complete maxillary (upper denture). See Exhibit 4.
2. The Appellant's dentist did not submit any additional remarks or provide a narrative with the request. See Exhibit 4.
3. On or about November 2018, the appellant received an upper denture paid for by MassHealth. *Testimony*.

4. The Appellant lost his denture approximately one year ago. See Testimony and Exhibit 3.

Analysis and Conclusions of Law

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.

130 CMR 420.428(A).

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, 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.

130 CMR 420.428(F).

In general, if there is a pre-existing removable prosthesis (includes partial and full dentures), it

must be at least seven years old and unserviceable to qualify for replacement. Additionally, a new prosthesis will not be reimbursed within two years of a reline or repair of the existing prosthesis unless adequate documentation has been presented that all procedures to render the denture serviceable have been exhausted; and replacement of lost, stolen, or broke dentures less than seven years of age usually will not meet the criteria for pre-authorization of a new denture.

Health Safety Net Office Reference Manual 14.06 – Criteria for Replacement Denture (June 2022)

MassHealth pays for dentures once per seven calendar years per member and the appellant was responsible for the care and maintenance of the dentures he received in November 2018. (*see 130 CMR 420.428(A)*). The MassHealth agency does not pay for the replacement of dentures if the member's denture history reveals the existing denture was less than seven years old and no other condition in *130 CMR 420.428(F)* applies. The appellant had his full upper denture for less than seven years and the circumstances of how the dentures were lost cannot be attributed to extraordinary circumstances. Additionally, the requesting dentist did not submit any documentation that would support a finding that any other condition listed in *130 CMR 420.428(F)* would apply here. MassHealth's action is upheld, 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

