

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2206778
<b>Decision Date:</b>	12/29/2022	<b>Hearing Date:</b>	11/18/2022
<b>Hearing Officer:</b>	Alexandra Shube	<b>Record Open to:</b>	12/15/2022

**Appearance for Appellant:**

*Via telephone:*

Pro se

**Appearance for MassHealth:**

*Via telephone:*

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

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Prior Authorization – Adult Dental
<b>Decision Date:</b>	12/29/2022	<b>Hearing Date:</b>	11/18/2022
<b>MassHealth’s Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South Remote	<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 August 23, 2022, MassHealth denied the appellant's prior authorization request for dental service codes D5211 – partial upper denture and D5212 – partial lower denture (Exhibits 1 and 5). The appellant filed this appeal in a timely manner on September 9, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a prior authorization request is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant’s prior authorization request for dental service codes D5211 – partial upper denture and D5212 – partial lower denture.

## Issue

The appeal issue is whether MassHealth was correct in denying the appellant’s prior authorization request.

## Summary of Evidence

Dr. Sheldon Sullaway, a MassHealth representative from DentaQuest, the third-party contractor that administers and manages the dental program available to MassHealth members, appeared via telephone and testified as follows: on August 23, 2022, MassHealth received a prior authorization request for dental service codes D5211 – partial upper denture and D5212 – partial lower denture. MassHealth denied the request on August 23, 2022 because of benefit limitations. The requested service is allowed once every seven years (or 84 months) and MassHealth records indicate that the appellant received the requested service less than seven years ago, on July 8, 2019. The MassHealth representative testified that there are exceptions for denture replacement, including one for extraordinary circumstances, such as a fire in the home. He understood that the appellant experienced such an event, but he did not have any documentation showing proof of the fire. Additionally, he did not have a narrative from the appellant's provider.

The appellant testified that she faxed paperwork from the Red Cross regarding a fire that occurred in her home while she was asleep. Neither the Board of Hearings nor the MassHealth representative had them. The record was held open until December 8, 2022 to allow the appellant time to provide documentation of the fire, as well as a narrative from her provider.

On November 24, 2022, the appellant emailed this hearing officer with documentation regarding the fire in her home, which was forwarded to the MassHealth representative. On November 25, 2022, Dr. Sullaway responded via email that he had received and reviewed the documentation, which he found to be an exception to regulation 130 CMR 420.428(F)(5). As a result, he reversed the denial and approved dental service codes D5211 – partial upper denture and D5212 – partial lower denture for the appellant. He did not require the narrative from the provider.

## Findings of Fact

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

1. On August 23, 2022, MassHealth received a prior authorization request from the appellant's provider for dental service codes D5211 – partial upper denture and D5212 – partial lower denture (Testimony and Exhibit 5).
2. On August 23, 2022, MassHealth denied the request because the service is allowed one time every seven years and the appellant received the service less than seven years ago on July 8, 2019 (Testimony and Exhibits 1 and 5).
3. The appellant timely appealed the denial on September 9, 2022 (Exhibit 2).
4. The appellant's dentures were lost in a house fire (Testimony and Exhibit 7).
5. The record was held open until December 8, 2022 to allow the appellant to provide documented proof of the fire (Exhibit 6).

6. On November 24, 2022, the appellant provided documentation from the Red Cross confirming the fire in her residence (Exhibit 7).
7. On November 25, 2022, the MassHealth consultant informed parties that he had reviewed the information on the fire provided by the appellant and considered it an exception to regulation 130 CMR 420.428(F)(5). He overturned the denial and approved the appellant for dental service codes D5211 – partial upper denture and D5212 – partial lower denture, as requested. (Exhibit 8).

## Analysis and Conclusions of Law

Regulation 130 CMR 420.428 governs removable prosthodontic services and states the following:

- (A) General Conditions. The MassHealth agency pays for dentures services once per seven (7) 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.

Under 130 CMR 420.428(F), MassHealth pays for the necessary replacement of dentures. The member is responsible for denture care and maintenance. The member must take all possible steps to prevent the loss of the member's dentures. **MassHealth 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.**  
(Emphasis added)

During the record open period, the appellant provided sufficient proof of the house fire. As a result, the MassHealth dental consultant determined that the loss of the denture was due to extraordinary circumstances and an exception to 130 CMR 420.428(F)(5). He overturned the original denial and approved the appellant for dental service codes D5211 – partial upper denture and D5212 – partial lower denture.

As the issue on appeal was a denial of prior authorization for partial upper and lower dentures and the prior authorization has been approved, this appeal is dismissed.

## **Order for MassHealth**

None, other than issue an approval notice for dental service codes D5211 – partial upper denture and D5212 – partial lower denture, if not already done so.

## **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.

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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA