

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2207253
Decision Date:	1/17/2023	Hearing Date:	November 04, 2022
Hearing Officer:	Brook Padgett	Record Open to:	December 05, 2022

Appellant Representative:



MassHealth Representative:

Dr. Sheldon Sullaway, DMD



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street, 6th floor
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	130 CMR 420.428
Decision Date:	1/17/2023	Hearing Date:	November 04, 2022
MassHealth Rep.:	Dr. Sullaway, DMD	Appellant Rep.:	Daughter
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

The appellant received a notice dated September 06, 2022, stating: Your request for prior authorization for a mandibular partial denture has been denied. (130 CMR 420.427(F) (Exhibit 1).

The appellant filed this appeal timely on March September 27, 2022. (130 CMR 610.015(B); Exhibit 2).

Denial of a request for prior authorization is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization for a lower partial denture.

Issue

Is the appellant eligible for replacement of her lower partial denture?

Summary of Evidence

The MassHealth representative, a licensed dentist, testified that the appellant's dental provider submitted a prior authorization (PA) request for replacement of a lower partial denture on September 06, 2022. This request was denied by MassHealth on September 06, 2022, because MassHealth does not pay for replacement dentures that are less than seven years old and the appellant received her lower denture on July 11, 2016 (130 CMR 420.427(F)(5)).

The appellant was represented by her daughter who stated the appellant is 86 years old and has had several broken and extracted teeth, so she is no longer able to use her lower dentures. She has only two lower teeth remaining and has been unable to eat anything but pureed foods for months causing her to lose weight. The representative stated the appellant needs her teeth to maintain her nutrition and is ailing and he should not be barred from getting new dentures because she had to have teeth removed. The appellant submitted into evidence a letter from her dentist stating "... current abutment teeth are failing ... few of the abutment teeth needs (sp) to be modified into teeth supported (sp) complete overdenture (overdenture copings: 21, 22, 23, 28).

MassHealth responded that their the records indicate the appellant received a set of lower dentures within the last seven years and the appellant's Provider failed to submit x-rays and a narrative explaining what actions they would like to take such as which teeth need to be replaced or how they propose an abutment.

At the appellant's representative's request, the record remained open until December 05, 2022 to allow submission of x-rays and a narrative from the appellant's Provider for review. (Exhibit 6).

The appellant's representative submitted photos of current dentures along with a narrative from the dentist requesting a supported overdenture because her existing supported teeth are fractured and too weak to support the existing denture. (Exhibit 8).

MassHealth reviewed the additional information and responded that the copings and overdenture detailed in the narrative are excellent ways to replace teeth as the overdenture is more stable and retentive than a standard denture; however the appellant remains ineligible for a partial lower denture as her request for the replacement is within seven years. (Exhibit 9).

Findings of Fact

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

1. The Appellant is seeking a replacement of a partial lower denture. (Testimony and Exhibit 4).
2. MassHealth approved the Appellant for a partial lower denture on July 11, 2016. (Testimony and Exhibit 4).
3. The Appellant's partial lower denture is no longer usable as several abutment teeth which hold

the denture in place have been broken or removed. (Exhibit 5, 8 and Testimony).

Analysis and Conclusions of Law

The MassHealth agency and its dental program only pays for medically necessary services and require MassHealth members establish such medical necessity 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,¹ covered services for certain dental treatments, including removable prosthodontic devices such as dentures, are subject to the limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.428 provides the framework for denture benefits for MassHealth beneficiaries and their possible replacement and repair. The regulation contains the relevant description and limitation for prosthodontic devices including specific sections regarding replacement request for dentures and reads in relevant part as follows:

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.*

...

*(F) 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*

¹ 130 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 October 5, 2022).

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, and 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.

(Bolded emphasis added.)

The above regulation states MassHealth will not pay for the replacement of dentures if the dentures are less than seven years old and the denture history reveals no other condition listed in 130 CMR 420.428(F)(1) through (4) or (6) through (8) apply.² While there is no dispute that the appellant's dentures are less than seven years old (the appellant's previous lower denture was approved six years and five months ago); the record indicates the appellant's partial lower denture is no longer usable as several abutment teeth which hold the denture in place have been broken or removed. The appellant has a new medical condition of additional broken and missing teeth which necessitates a change or a requirement for a new lower partial denture. (130 CMR 420.428(F)(4)).

Although the appellant's existing denture is less than seven years old, I find the appellant meets the condition in 130 CMR 420.428(F)(4) and therefore her lower partial denture can be replaced by MassHealth and this appeal is APPROVED.

Order for MassHealth/DentaQuest

Rescind the denial for PA # 202224900071200 and approve the request for replacement of lower partial denture (D5212). Send an approval notice to Appellant and her dental provider as soon as possible, and no later than 30 days from the date of the decision.

² Although this regulation is poorly written and overly confusing it states that if the member's denture is less than seven years old any requests for a replacement will be denied if the old denture (1) can be repaired or relined to make the existing denture usable; or (2) the old dentures are unsatisfactory due to physiological causes that cannot be remedied; (3) or a clinical evaluation suggests that the member will not adapt satisfactorily to the new denture; (4) or there is no medical or surgical condition in the member which necessitates a change in the denture or a requirement for a new denture; (6) or the denture has been relined within the previous two years; (7) or there has been marked physiological change in the member's oral cavity, and any further reline has a poor prognosis for success; or (8) if the denture was lost but not by some extraordinary circumstances such as a fire. However if it is determined that the denture does not meet (1-4) or (6-8) then the denture can be approved.

D5120 Complete lower denture

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact the MassHealth Dental Program through MassHealth Customer Service.³ If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth representative PO Box 9708, Boston, MA 02114-9708

³ The direct Customer Service number for DentaQuest for MassHealth members is 1-800-207-5019. The general number for MassHealth Customer Service is 1-800-841-2900.