

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:

[REDACTED]
[REDACTED]
[REDACTED]

Appeal Decision: DENIED

Appeal Number: 2208366

Decision Date: 1/23/2023

Hearing Date: 12/16/2022

Hearing Officer: Kenneth Brodzinski

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:	Prior Authorization - Dental
Decision Date:	1/23/2023	Hearing Date:	12/16/2022
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
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

Through notice dated October 20, 2022, MassHealth denied Appellant's request for prior authorization to replace Appellant's full upper and lower dentures on the grounds that Appellant's existing or previous dentures are less than seven (7) years old (Exhibit A). Appellant filed this appeal in a timely manner on November 9, 2022 (see 130 CMR 610.015(B) and Exhibit A). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization to replace Appellant's full upper and lower dentures.

Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied prior authorization to replace Appellant's full upper and lower dentures.

Summary of Evidence

MassHealth was represented by a dentist who testified by phone that Appellant's dental provider submitted a prior authorization request to MassHealth seeking approval for dental services D5110 (complete upper denture) and D5120 (complete lower denture). The MassHealth representative testified that both items were denied because Appellant was previously provided with these items on September 20, 2017 and MassHealth restricts replacement of these items if they are less than seven years old.

Appellant appeared on her own behalf by phone and testified that her dog chewed and destroyed both dentures after she left them unattended in a denture cup for cleaning. Appellant testified that she is unable to eat solid food. She is currently consuming liquid Ensure, but states that it does not provide complete nutrition.

Findings of Fact

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant is appealing the denial of prior authorization for full upper and lower dentures.
2. MassHealth denied the request because Appellants existing dentures are less than seven years old.
3. MassHealth paid for dentures that were furnished to Appellant on September 20, 2017.

Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

This matter is controlled by MassHealth regulation 130 CMR 420.428 which states (emphasis supplied):

(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 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. 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 record does not evidence the applicability of conditions listed in sub sections 1-4, 6 or 7 above; therefore, subsection 5 does apply. MassHealth last paid for complete upper and lower dentures that were provided to Appellant on September 20, 2017. Insofar as seven years have not transpired since this date, MassHealth properly applied the controlling regulation in denying the request.

For the foregoing reasons, the appeal is DENIED.

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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA