

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** DENIED

**Appeal Number:** 2208844

**Decision Date:** 1/18/2023

**Hearing Date:** 01/06/2023

**Hearing Officer:** Christopher Taffe

**Appearances for Appellant:**




**Appearance for MassHealth:**

Sheldon Sullaway, DMD, on behalf of  
DentaQuest (by phone)



*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>	DENIED	<b>Issue:</b>	PA – Dental – Noncovered Services
<b>Decision Date:</b>	1/18/2023	<b>Hearing Date:</b>	01/06/2023
<b>MassHealth's Rep.:</b>	S. Sullaway, DMD	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	HarborSouth Tower, Quincy (remote hearing)	<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 November 10, 2022, MassHealth denied approval of various dental prior authorization (PA) requests on the ground that the services requested were not covered by the MassHealth dental program for adults. See Exhibit 1; 130 CMR 420.424(C)(2). Appellant filed a timely request for a Fair Hearing on November 30, 2022. See Exhibit 1; 130 CMR 610.015(B). Challenging a MassHealth denial of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

## Action Taken by MassHealth

MassHealth denied Appellant's PA request for various dental services including two glass cap crowns, two pontics, and a fixed prosthodontic.

## Issue

Are the services requested by MassHealth potentially coverable for this MassHealth member? If so, is it appropriate or medically necessary for these services to be done?

## Summary of Evidence

Appellant is an [REDACTED] MassHealth member who lives in the community. Appellant appeared and testified by phone at hearing, and she was accompanied over the phone by her case worker from Greater Lynn Senior Services (GLSS). Dr. Sullaway appeared by phone on behalf of DentaQuest, who is the third-party administrator of the MassHealth Dental program.

On November 11, 2022, Appellant requested a series of dental services through her dental provider in Lynn. Five of the services were requested and denied for the same reason, that they were not services covered by Appellant's MassHealth benefit. The five services denied,<sup>1</sup> with their respective dental service codes, are as follows:

1. D6740 – a White Glass (porcelain/ceramic) Cap or Crown for Tooth # 11
2. D6740 – a White Glass (porcelain/ceramic) Cap or Crown for Tooth # 13
3. D6245 – a fixed porcelain/ceramic prosthodontic, or pontic for Tooth # 12
4. D6245 – a fixed porcelain/ceramic prosthodontic, or pontic for Tooth # 14
5. D6930 – recemented bridge treatment on Tooth # 11.

[These dental services are generally considered a subset of Prosthodontic Services when there is a fixed (non-removable) appliance. Removable prosthodontic services usually involve dentures.]

Appellant previously had some sort of bridge in the upper left jaw, and these services for teeth # 11 through 14 (in the area from the upper left canine to the upper left first molar) were requested because the pre-existing bridge was in need of repair. There is no evidence in the record suggesting when the bridgework was first done or whether MassHealth had paid for or approved that work in prior years.

MassHealth testified that, by regulatory law, the services requested are simply not covered by the agency for any MassHealth adult member over the age of 21. MassHealth initially suggested that perhaps there were alternatives, such as pontics or crowns involving porcelain to metal, that may be potentially coverable under the MassHealth program, and Appellant could talk with her treating dental providers to see if there were alternatives that are potentially coverable. If a service is potentially coverable, then MassHealth will look to whether the need for the service is medically appropriate and necessary, but the requested service, as a prerequisite, must be potentially coverable before that next step of analysis can be done.

Appellant is an elder who is a kidney transplant recipient and, relatedly, she is on immunosuppressant medicines. As a result, she has been told she cannot have metal in her mouth

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<sup>1</sup> A post-hearing review of the DentaQuest packet suggest that there were seven services total in the PA request found within Exhibit 5. However two of the services requested were for D2954 treatment (prefabricated post and core buildup) on teeth numbers 11 and 13, but the DentaQuest records suggest that such services were not subject to the PA process and that approval of a PA were not needed. There was no testimony taken on these services which were not technically denied.

and that metal dental services are not possible for her. Without full or adequate dentition, she has difficulty consuming her normal diet, and she has been at risk for aspiration due to the activity of eating over the past 12 months. Appellant is also frustrated because she has spoken with various dental providers and she claims that during these conversations her providers and/or Appellant herself spoke with various MassHealth individuals over the year and Appellant had been repeatedly told that the dental services she need would be “covered 100%”; Appellant as a result cannot understand why MassHealth and DentaQuest denied the request in November and at hearing.<sup>2</sup>

Dr. Sullaway expressed sympathy for the Appellant but indicated that, because she was an adult over the age of 21, neither he nor the regulations had any authority to consider approving the requested services at issue because they were not covered by the program.

At the end of hearing, Dr. Sullaway offered some information of a possible alternative. He stated that, outside of the appeal, perhaps Appellant could contact the MassHealth Dental Program’s “*Complaint*” or “*Intervention*” Department and that department may be able to assist Appellant if the regulations were not helpful in resolving her situation. Dr. Sullaway indicated that he heard that, at times, some people had good results with this department for unusual, confusing, or sympathetic situations, and that it may be worth a try. The phone number is 1-800-207-5019, and Appellant was told when calling to ask for a “*complaint*” form and to not ask for an “*appeal*” form, as the latter would just lead the Appellant to the Board of Hearings for another similar appeal. Dr. Sullaway also offered a mailing address for the form, or for any further written correspondence. That address is *MassHealth Dental Program, Attention: Intervention Services, P.O. Box 9708, Boston, MA 02114-9708*.

## Findings of Fact

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

1. Appellant is a MassHealth member over the age of 21 who lives in the community. (Testimony and Exhibit 5)
2. Appellant is a kidney-transplant recipient and is on immunosuppressant medications. (Testimony and Exhibits 1 and 4)
3. Appellant is in need of repair or dental services to the upper left part of her mouth. (Testimony and Exhibits 1 and 4)
4. Through her dental provider, a Prior Authorization or PA request was submitted to MassHealth for the following five dental services:

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<sup>2</sup> Appellant had reference numbers for some of the calls which she was willing to offer at hearing but the testimony was not clear as to who was called or what specifically was being discussed when someone said it would be covered “100%”. It is also unclear if someone was making a comment that covered services which are approved would be paid for completely, or 100%, by MassHealth.

- a. D6740 – a White Glass (porcelain/ceramic) Cap or Crown for Tooth # 11;
  - b. D6740 – a White Glass (porcelain/ceramic) Cap or Crown for Tooth # 13;
  - c. D6245 – a fixed porcelain/ceramic prosthodontic, or pontic for Tooth # 12;
  - d. D6245 – a fixed porcelain/ceramic prosthodontic, or pontic for Tooth # 14; and
  - e. D6930 – recemented bridge treatment on Tooth # 11.
- (Testimony and Exhibit 5)

5. MassHealth denied the request for these services on the grounds that these prosthodontic services requested were not covered services under the MassHealth adult dental program. (Testimony and Exhibit 1)

## Analysis and Conclusions of Law

As to any prior authorization or PA request, the MassHealth program is generally required to cover services and treatments for its MassHealth members if the request is deemed to be appropriate or “*medically necessary*”. The MassHealth regulation as to what that term means, found at 130 CMR 450.204 in the “*All Provider*” regulatory manual, reads in relevant part as follows:

### 450.204: Medical Necessity

...

(A) A service is “*medically necessary*” if:

*(1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and*

*(2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.*

...

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity **and coverage guidelines**. ...

(**Bolded** emphasis added.)

With that explicit reference to “*coverage guidelines*” in 130 CMR 450.204(D), the regulatory law indicates that the MassHealth program may have coverage exclusions which may be found within other relevant agency regulations and publications.

As one such example, within the regulations for the MassHealth dental program (found at 130 CMR

420.000 et seq.), there are many exclusions, or non-covered services and restrictions, that the MassHealth agency has which are imposed on its members. This list of excluded dental services is greater for adults over the age of 21 than it is for younger Medicaid recipients<sup>3</sup> in the Commonwealth. See 130 CMR 420.421.

420.421: Covered and Non-covered Services: Introduction

(A) Medically Necessary Services. The MassHealth agency pays for the following dental services when medically necessary:

- (1) **the services with codes listed in Subchapter 6 of the Dental Manual**, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456; and
- (2) all services for EPSDT-eligible members, in accordance with 130 CMR 450.140 through 450.149, without regard for the service limitations described in 130 CMR 420.422 through 420.456, or the listing of a code in Subchapter 6. All such services are available to EPSDT-eligible members, with prior authorization, even if the limitation specifically applies to other members younger than 21 years old.

(B) Non-covered Services. 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 younger than 21 years old. Prior authorization must be submitted for any medically necessary non-covered services for members younger than 21 years old.

- (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

(C) Covered Services for All Members 21 Years of Age or Older. The MassHealth agency pays for the services listed in 130 CMR 420.422 through 420.456 for all members 21 years of age or older in accordance with the service descriptions and limitations set forth therein:

- (1) diagnostic services as described in 130 CMR 420.422;
- (2) radiographs as described in 130 CMR 420.423;

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<sup>3</sup> The reference to EPSDT in the 420.421 regulation is a reference to a group of MassHealth members under the age of 21. EPSDT stands for Early and Periodic Screening, Diagnostic and Treatment services for children and young adults. See 130 CMR 450.140.

- (3) preventive services as described in 130 CMR 420.424;
- (4) restorative services as described in 130 CMR 420.425;
- (5) endodontic services as described in 130 CMR 420.426;
- (6) periodontal services as described in 130 CMR 420.427;
- (7) **prosthodontic services as described in 130 CMR 420.428;**
- (8) oral surgery services as described in 130 CMR 420.430;
- (9) anesthesia services as described in 130 CMR 420.452;
- (10) oral and maxillofacial surgery services as described in 130 CMR 420.453;
- (11) maxillofacial prosthetics as described in 130 CMR 420.455;
- (12) behavior management services as described in 130 CMR 420.456(B);
- (13) palliative treatment of dental pain or infection services as described in 130 CMR 420.456(C); and
- (14) house/facility call as described in 130 CMR 420.456(F).

*(D) Non-covered Services for Members 21 Years of Age or Older. The MassHealth agency **does not pay for the following services for members 21 years of age or older:***

- (1) preventive services as described in 130 CMR 420.424(C);
  - (2) **prosthodontic services (fixed) as described in 130 CMR 420.429;** and
  - (3) other services as described in 130 CMR 420.456(A), (B), (E), and (F).
- (Bolded emphasis added.)**

Per 130 CMR 420.421(A)(1) I have looked at the service codes in the current Subchapter 6 of the MassHealth Dental Manual.<sup>4</sup> Of the three service codes, D6930 is listed within that document but the Subchapter 6 document indicates that it may only be approved for MassHealth members under the age of 21, so the recemented bridge treatment cannot be approved for the elder Appellant. Further, Service Codes D6740 and D6245 are not listed within the document for anyone, even children, so the pontics or crowns requested are also not potentially coverable for any MassHealth members. See page 6-13 of Subchapter 6.

I have also looked at 130 CMR 420.428 and 130 CMR 420.429. 130 CMR 420.428 allows for complete removable dentures as well as removable partial dentures so long as certain conditions are met. 130 CMR 420.429 talks about bridge repair but only in the context of covering it for members under the age of 21.

420.428: 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.*

<sup>4</sup> <https://www.mass.gov/files/documents/2022/01/14/sub6-den.pdf> (last viewed on January 6, 2023).

*(B) Prosthodontic Services. The MassHealth agency pays for complete dentures for all members. The MassHealth agency pays for immediate dentures, including relines and post insertion procedures and placement of identification, for members younger than 21 years old.*

*(C) Denture Procedures.*

...

*(D) Complete Dentures. Payment by the MassHealth agency for complete dentures includes payment for all necessary adjustments, including relines, as described in 130 CMR 420.428(E).*

*(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis, and there is a favorable prognosis for treatment outcome. A tooth is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.*

*(F) Replacement of Dentures. The MassHealth agency pays for the necessary replacement of dentures. ...*

*(G) Complete Denture Relines. The MassHealth agency pays for chairside and laboratory complete denture relines. Payment for dentures includes any relines or rebases necessary within six months of the insertion date of the denture. The MassHealth agency pays for subsequent relines once every three calendar years per member.*

420.429: Service Descriptions and Limitations: Prosthodontic Services (Fixed)

*(A) Fixed Partial Dentures/Bridges. The MassHealth agency pays for fixed partial dentures/ bridge for anterior teeth only **for members younger than 21 years old with two or more missing permanent teeth. The member must not have active periodontal disease and the prognosis for the life of the bridge and remaining dentition must be excellent.***

*(B) Fixed Partial Denture/Bridge Repair. The MassHealth agency pays for chairside fixed partial denture/bridge repair. A description of the repair must be documented in the member's dental record.*

**(Bolded emphasis added.)**

Dr. Sullaway's testimony was correct and consistent with the law. None of the specific prosthodontic work requested can be covered by law for an adult over the age of 21, and thus Appellant cannot be entitled to an approval or reconsideration of the MassHealth decision. There is no need or ability to analyze the MassHealth medical necessity regulation or make a determination about the need or appropriateness of the requested services if, by regulation, they are not covered.

Despite any legitimate medical need of the Appellant and the credible, understandable, and sympathetic circumstances that to which she testified, her appeal must be DENIED.



I am not sure what conversations Appellant had with third-parties who indicated that MassHealth or DentaQuest would cover the work she is seeking, but the law does not appear to be on her side. As MassHealth pointed out and as detailed in the Summary above, there is an “Intervention” process that Appellant could explore to see if the agency can assist with any suggestions or recommendations outside the MassHealth dental regulations in 130 CMR 420.000.<sup>5</sup>

## 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.

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Christopher Taffe  
Hearing Officer  
Board of Hearings

cc: Appeals Coordinator @ DentaQuest



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<sup>5</sup> 130 CMR 420.410(C) references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. This was the document mentioned at hearing by Dr. Sullaway as a possible guide for providers to see what is coverable. The current version (dated June 1, 2022) can be found at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last viewed on January 9, 2023).