

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2209349
<b>Decision Date:</b>	3/15/2023	<b>Hearing Date:</b>	01/27/2023
<b>Hearing Officer:</b>	Kimberly Scanlon		

**Appearance for Appellant:**

*Via telephone*

Appellant, 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>	Denied	<b>Issue:</b>	Prior Authorization – Adult Dental
<b>Decision Date:</b>	3/15/2023	<b>Hearing Date:</b>	01/27/2023
<b>MassHealth’s Rep.:</b>	Dr. Sullaway	<b>Appellant’s Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South 3 (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 November 18, 2023, MassHealth denied the Appellant's prior authorization (PA) request for upper dentures. (130 CMR 420.428; Exhibit 1; Exhibit 4, p. 3). The Appellant filed this appeal in a timely manner on December 12, 2022. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the Appellant’s PA request for a complete upper denture (maxillary) because the agency had paid for upper dentures within the past seven years.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(F), in denying the Appellant’s request for a complete upper denture at this time because it had paid for dentures within the past 84 months.

## Summary of Evidence

The Appellant is a MassHealth member over the age of 21 who appeared and testified at the hearing

by telephone. MassHealth was represented telephonically at the hearing by Dr. Sullaway, a consultant for DentaQuest which is the entity that has contracted with the MassHealth agency to administer and run the agency's dental program for MassHealth members. Dr. Sullway testified that MassHealth only pays for dentures once every 84 months (7 years). According to the records provided to DentaQuest, the Appellant received an upper denture on May 17, 2017.<sup>1</sup> There are exceptions, however, the PA request submitted did not include a narrative that explained the need for a complete upper denture replacement.

The Appellant testified that she never received a permanent upper denture, rather it was temporary. Moreover, the temporary denture she received did not fit properly and had her name on a sticker inside of it. Due to the improper sizing, the Appellant testified that she continuously needed to use denture adhesive cream. Even so, her dentures continued falling out until she lost them. The Appellant made inquiry about her name on a sticker embedded in the dentures that she received because she was not made aware that this practice was performed on others who had received dentures. The Appellant further explained that the dentist who provided her with said dentures in 2017 was no longer employed at the dental office that she frequented. Further, she was told by that same office that there was no way to make contact with said dentist.

In response, Dr. Sullaway explained that the Appellant is responsible for the care of dentures after insertion, which includes the responsibility of losing said dentures in accordance with 130 CMR 420.428(A). With respect to her name placement on the denture itself, Dr. Sullaway stated that your name is supposed to be inside the denture, in accordance with newer rules that went into effect. As to the Appellant's former dentist, Dr. Sullaway explained that she could file a complaint against the dentist and gave her the pertinent information in order to do so if the Appellant so chooses.

## **Findings of Fact**

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

1. The Appellant is an adult MassHealth member. (Testimony; Exhibit 1; Exhibit 4).
2. On or about November 18, 2022, MassHealth received a prior authorization request from the Appellant's dental provider seeking coverage for upper dentures for the Appellant. (Testimony; Exhibit 4).
3. MassHealth denied this request on the same day because it had paid for dentures in May of 2017, within the past seven years. (Testimony).
4. The Appellant's upper dentures that she received in 2017 did not fit properly and continued to fall out until she lost them. (Testimony).

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<sup>1</sup> DentaQuest did not provide any written record of the May 18, 2017 date in its submission for a hearing (found in Exhibit 4) however, the Appellant did not contest that she previously received an upper denture.

## Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. (See, 130 CMR 450.204; 130 CMR 420.410). In addition to complying with the prior authorization requirements found at 130 CMR 420.410 et. seq.,<sup>2</sup> covered services for certain dental treatments, including dentures, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. (See, 130 CMR 420.421(A) through (C)).

130 CMR 420.428 contains the relevant description and limitation for prosthodontic devices, such as the upper denture at issue in this appeal and has a specific section regarding the rules for replacement. Specifically, 130 CMR 420.428 reads in pertinent part, as follows:

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.

(130 CMR 420.428(A)).

....

(F) Replacement of Dentures. The MassHealth agency pays for the necessary replacement of partial dentures. The member is responsible for dental 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

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<sup>2</sup> 130 CMR 420.410(C) also references and incorporated 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 March 7, 2023).

- 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 a 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.

(130 CMR 420.428(F)).

In the present case, there is no dispute that the Appellant's denture is less than seven years old. Moreover, in accordance with 130 CMR 420.428(A), the member is responsible for all denture care and maintenance following insertion. While 130 CMR 420.428(F) allows replacements that are necessary, the remaining language indicates that replacements will be allowed within seven years in certain circumstances, as described above. Additional guidance can also be found in Section 15.6 of the Dental ORM. Under the "Criteria or Replacement Prosthodontics," it states: "If there is a pre-existing prosthesis, it must be at least seven years old and unserviceable to qualify for replacement"; and also states: "Replacement of lost, stolen or broken dentures less than seven years of age usually will not meet the criteria for pre-authorization of a new denture." Given this additional guidance, I find that MassHealth allows the replacement of lost, stolen or broken dentures within less than seven years if there are "extraordinary circumstances such as a fire in the home." (See, 130 CMR 420.428(F)(8)).

Here, the loss of the Appellant's denture does not meet any of the exceptions listed in 130 CMR 420.428(F). The Appellant lost her upper denture due to improper fitting, as she testified to at the hearing. While this may give rise to a complaint that they were poorly made, the Appellant's current dentist did not submit any evidence indicating that the loss of the Appellant's upper denture was due to an extraordinary circumstance or that the replacement for an upper denture was medically necessary.

Therefore, the Appellant must wait until her seven-year coverage window has closed before MassHealth can replace them. This 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.

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Kimberly Scanlon  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA