

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2209498
Decision Date:	5/16/2023	Hearing Date:	03/31/2023
Hearing Officer:	Kenneth Brodzinski	Record Open to:	04/21/2023

Appearance for Appellant:



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
Decision Date:	5/16/2023	Hearing Date:	03/31/2023
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 December 14, 2022, MassHealth denied Appellant's request for prior authorization to replace Appellant's full upper and partial 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 December 21, 2022 (130 CMR 610.015(B) and Exhibit A). Denial of prior authorization for assistance constitutes valid grounds for appeal (130 CMR 610.032).

Appellant defaulted on a hearing scheduled for February 3, 2023. The default was subsequently vacated and a hearing went forward on March 31, 2023 (Exhibit C).

Action Taken by MassHealth

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

Summary of Evidence

Both parties appeared by telephone. At hearing, MassHealth filed a packet of documents which included a copy of the prior authorization request (Exhibit B). Appellant's only submission is her Fair Hearing Request Form (Exhibit A)

MassHealth was represented by a practicing dentist who testified that Appellant's dental provider submitted a prior authorization request to MassHealth seeking approval for dental services D5110 (complete upper denture) and D5212 (partial lower denture). The MassHealth representative testified that both items were denied because Appellant was previously provided with these items on May 17, 2018 and MassHealth restricts replacement of these items if they are less than seven years old.

Appellant appeared on her behalf along with two representatives. Appellant's representatives testified that Appellant resides in a group home and has had a number of hospitalizations. Two years ago, Appellant was hospitalized for a seizure and during the rush to the hospital, her dentures were lost. Since that time, Appellant has lost a significant amount of weight including 40 pounds over the last six months. Appellant's representatives testified that due to Appellant's general illness and frequent hospitalizations they were unable to pursue the replacement dentures until just recently with this prior authorization request.

Upon the hearing officer's suggestion, Appellant requested that the record be left open to allow her the opportunity to obtain documentation verifying the circumstances of the loss of her dentures. By the record close date and the date of this decision, Appellant has not filed any additional documentation and has not requested additional time to do so.

Findings of Fact

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

1. Appellant is appealing MassHealth's denial of prior authorization for full upper and partial lower dentures.
2. MassHealth denied the request because Appellant's existing dentures are less than seven years old.
3. MassHealth furnished Appellant with a full upper and a partial lower denture on May 17, 2018.

Analysis and Conclusions of Law

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 furnished Appellant with a full upper and a partial lower denture in May 2018. Insofar as the dentures are less than 7 years old, MassHealth properly applied the controlling regulation in denying the request.

The circumstances of the loss described by Appellants representatives during the hearing may have satisfied subsection (8) above, and justified reversal of the denial. Appellant was given the opportunity after the hearing to file supporting documentation. Unfortunately, Appellant failed to make such a filing.

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