

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2209609
<b>Decision Date:</b>	2/16/2023	<b>Hearing Date:</b>	02/03/2023
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**

*Via telephone:*

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>	Approved	<b>Issue:</b>	Prior Authorization - Adult Dental Services
<b>Decision Date:</b>	2/16/2023	<b>Hearing Date:</b>	02/03/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South 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 December 15, 2022, MassHealth denied the appellant's prior authorization request for dental service code D5212 – mandibular (lower) partial denture (Exhibits 1 and 5). The appellant filed this appeal in a timely manner on December 28, 2022 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for dental service code D5212 – partial lower denture.

## Issue

The appeal issue is whether MassHealth was correct in denying the appellant's prior authorization request.

## Summary of Evidence

Dr. Sheldon Sullaway, a MassHealth representative from DentaQuest, the third-party contractor that administers and manages the dental program available to MassHealth members, appeared via telephone and testified as follows: on December 15, 2022, MassHealth received a prior authorization request for dental service code D5212 – partial lower denture. On December 15, 2022, MassHealth denied the request because of benefit limitations. The requested service is allowed once every seven years (or 84 months) and MassHealth records indicate that MassHealth paid for, and the appellant received, the requested service less than seven years ago, on November 16, 2017 from Dr. Charles Malkemus.

The appellant appeared via telephone and testified as follows: she cannot understand this denial because she has never had nor needed dentures until this time. Dr. Malkemus was never her regular dentist and she saw him only once or twice, years ago on an emergency basis. She has never been fitted for dentures and has never owned them. Her current dentist has pulled multiple teeth in preparation for the denture requested in this prior authorization. She never would have gone through with it if she knew it would not be approved. She testified that her current dentist stated that she would be able to tell if the appellant had ever worn dentures. There is no indication in her mouth that she ever wore a partial.

Dr. Sullaway stated that MassHealth records indicate it paid Dr. Malkemus for dentures on November 16, 2017. He suggested an avenue (filing a complaint form with the Dental Complaint Department) that the appellant could explore to possibly rectify the issue. He provided the appellant with both a phone number and address for the Dental Complaint Department.

## Findings of Fact

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

1. On December 15, 2022, MassHealth received a prior authorization request for dental service code D5212 – partial lower denture (Testimony and Exhibits 1 and 5).
2. On December 15, 2022, MassHealth denied the request because the service is allowed once every seven years (or 84 months) (Testimony and Exhibit 5).
3. MassHealth records indicate that it paid Dr. Charles Malkemus for dental service code D5212 less than seven years ago on November 16, 2017 (Testimony).
4. On December 28, 2022, the appellant timely appealed the denial (Exhibit 2).
5. Dr. Malkemus was never the appellant's regular dentist (Testimony).
6. The appellant was never fitted for and has never needed nor received dentures (Testimony).

## Analysis and Conclusions of Law

Regulation 130 CMR 420.428 governs removable prosthodontic services and states the following:

(A) General Conditions. The MassHealth agency pays for dentures services once per seven (7) 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.

Under 130 CMR 420.428(F), MassHealth 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. MassHealth 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, 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.

It is unclear how or why MassHealth records, which were not provided to the hearing officer, indicate that MassHealth paid for and the appellant received dentures in 2017 from Dr. Malkemus, who was not the appellant's regular dentist. The appellant's testimony that she was never fitted for and has never needed nor received dentures prior to this request is credible and persuasive. For these reasons, the appeal is approved.

## **Order for MassHealth**

Approve the appellant for dental service code D5212 – mandibular partial denture.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA