

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300087
Decision Date:	3/22/2023	Hearing Date:	02/10/2023
Hearing Officer:	Christopher Jones	Record Open to:	03/10/2023

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 – Dentures
Decision Date:	3/22/2023	Hearing Date:	02/10/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Remote	Aid Pending:	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 decision dated December 21, 2022, MassHealth denied the appellant's prior authorization request for upper and lower partial dentures. (Exhibit 4; 130 CMR 420.428(D).) The appellant filed this timely appeal on January 4, 2023. (Exhibit 2; 130 CMR 610.015(B).) Limitation of assistance is valid grounds for appeal. (130 CMR 610.032.)

Following the hearing, the record was left open until March 10, 2023 for the appellant to submit proof of filing a complaint with MassHealth regarding her previous dentist.

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for dentures because the agency had paid for dentures for the appellant within the past seven years.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(D), in determining that the appellant was ineligible for replacement dentures at this time because it had paid for dentures within the past 84 months.

Summary of Evidence

Dr. Sullaway is a licensed dentist who works for DentaQuest, a company contracted by MassHealth to administer dental benefits. He testified that the appellant's December 21, 2022 request for dentures was denied because MassHealth had paid another dentist for partial upper and lower dentures on March 3, 2019. MassHealth only pays for dentures once every 84 months (seven years). There are exceptions, but he was unaware of what had happened to the appellant's dentures.

The appellant testified that her previous dentist made her dentures for her and they never fit properly. She brought them back to him to be fixed, but there were delays in getting adjustments due to the start of the pandemic. Because the dentist could not get them to fit properly, he agreed to make her a new set and he paid for the new set himself. However, due to a series of errors, the new set also did not fit or was made incorrectly. The appellant acknowledged that she missed several dental appointments during the process of getting her dentures fitted, and that when she missed the final fitting appointment her old dentist told her she was not welcome at his practice anymore. The appellant never got her original dentures back, and she believes that the dentist also has the new set that were made incorrectly. She never received them.

She believes she filed a complaint with MassHealth regarding her treatment by this dentist. She recalled being told over the phone that her old dentist had claimed she lost the new dentures. She was very disheartened to hear this lie, and so went to a new dentist. The appellant could not recall what number she called to file her complaint, nor did she recall ever receiving anything in writing. Dr. Sullaway suggested that she file a complaint in writing with the MassHealth Dental Program's Intervention Services. They are required to provide written confirmation of complaints. The appellant believed that she did this, and that was how she learned her previous dentist had lied. The appellant acknowledged that she has a disability that affects her memory, and she was not entirely certain as to whom she spoke with in this process. The record was left open for her to submit proof of filing a complaint with Intervention Services and of its outcome.

The appellant replied several times and requested that the record open period be extended for her to get documentation documenting her complaint to Intervention Services. Ultimately, she was unable to verify that she filed a complaint with Intervention Services and what the outcome of Intervention Services investigation had been.

Findings of Fact

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

1. On or around December 21, 2022, a prior authorization request was submitted on the appellant's behalf, seeking coverage for upper and lower partial dentures. (Exhibit 4.)
2. MassHealth denied this request on the same day because it had paid for dentures in within the past seven years, on March 3, 2019. (Exhibit 4; testimony by Dr. Sullaway.)

3. The appellant's dentures never fit. After a long process attempting to have them repaired or replaced by the dentist who made them, the dentist ceased his relationship with her because she had missed multiple appointments. (Testimony by the appellant.)
4. The appellant believes that she has filed a complaint with MassHealth's Dental Intervention Services department, which investigates provider complaints, but she was unable to provide any verification regarding the filing of this complaint or the outcome of the investigation that Intervention Services is required to undertake. (Testimony by the appellant; Exhibit 5.)

Analysis and Conclusions of Law

MassHealth pays for dental services that are medically necessary. (130 CMR 420.421(A).) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.¹ (130 CMR 450.204.) MassHealth's dental contractor also publishes additional guidance in the Dental Program Office Reference Manual ("ORM").²

Regarding dentures, the agency has ruled that they are medically necessary 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.

...

(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

¹ The Dental Manual is available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last visited March 11, 2023).)

² The Office Reference Manual is available at <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited March 11, 2023).

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.**

(130 CMR 420.428 (emphasis added).) ³

Breaking this regulation down, subsection (A) clearly limits payment for dentures to once every seven years. However, subsection (F) allows replacements that are "necessary," and the remaining language indicates that replacements will be allowed within seven years in some circumstances.⁴ Additional guidance exists in section 15.6 of the ORM. Under the "Criteria for 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"; but it also states, "Replacement of lost, stolen, or broken dentures less than seven years of age **usually will not** meet criteria for pre-authorization of a new denture." (Emphasis added.)

³ Some additional guidance exists in section 15.6 of the ORM. Under the "Criteria for 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"; but it also states, "Replacement of lost, stolen, or broken dentures less than seven years of age **usually will not** meet criteria for pre-authorization of a new denture."

⁴ It is particularly difficult to comprehend the linguistic meaning of paragraph (5). Paragraph (5) requires that one of the other conditions must **not** be met to replace dentures before seven years. It would be clearer if the triple negative structure of this regulation were rephrased.

The loss of the appellant's dentures does not meet any of the exceptions listed in 130 CMR 420.428(F). The appellant's dentures appear to have never fit well, which may have given rise to a complaint that they were poorly made. In this case MassHealth may be able to demand the dentist replace them or reimburse the agency for their creation. However, without any verification that the appellant has sought a resolution through the Dental Intervention Services unit, it is impossible to determine that the agency has had this opportunity. At this stage, the appellant must wait until her seven-year coverage limitation window has closed before MassHealth will 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.

Christopher Jones
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA