

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300531
Decision Date:	3/7/2023	Hearing Date:	2/24/2023
Hearing Officer:	Mariah Burns	Record Open to:	N/A

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway, DDS. for DentaQuest

Interpreter: none



*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:	Pre-Authorization – Periodontal Scaling and Root Planing
Decision Date:	3/7/2023	Hearing Date:	02/24/2023
MassHealth’s Rep.:	Dr. Sheldon Sullaway	Appellant’s Rep.:	Pro se
Hearing Location:	Quincy Harbor South 5 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 notice dated November 12, 2022, MassHealth denied the appellant's request for prior authorization of periodontal scaling and root planing on all four quadrants of the appellant’s mouth (see 130 CMR 420.427 and Exhibit 1). The appellant filed this appeal in a timely manner on January 23, 2023 (see 130 CMR 610.015(B) and Exhibit 2).¹ Challenging a denial of assistance is valid grounds for appeal to the Board of Hearings (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant’s request for approval of the prior authorization request for periodontal scaling and root planing on all four quadrants of the appellant’s mouth.

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, and restated in MassHealth Operations Memo (EOM) 20-10 dated August 1, 2022, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Issue

The appeal issue is whether MassHealth was correct in determining that the appellant did not qualify for coverage of the requested treatment due to the service exceeding his maximum benefits allowance.

Summary of Evidence

The appellant is a MassHealth member over the age of 21 who represented himself at hearing. MassHealth was represented by Dr. Sheldon Sullaway, a consultant for DentaQuest with nearly 40 years of dental experience. DentaQuest is the entity that has contracted with MassHealth to run the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Sullaway testified that on November 12, 2022, MassHealth received a request for prior authorization on behalf of the appellant for Dental Service Code 4341 – periodontal scaling and/or root planing, hereinafter referred to as “periodontal scaling,” for all four quadrants (upper left, upper right, lower left, and lower right) of adult teeth within the appellant's mouth. Exhibit 5. This was denied on the same day because the service exceeds the maximum benefits allowed by MassHealth regulations. *Id.*

Dr. Sullaway testified that 130 CMR 420.427(B) only allows for periodontal scaling to be covered by MassHealth every three calendar years. His records indicate that the appellant previously received the procedure on September 24, 2020 for his upper right and lower right quadrants and on October 29, 2020 for the lower and upper left quadrants.

Dr. Sullaway indicated that, although he believes the appellant requires the procedure based on the documentation provided, the appellant is not eligible for MassHealth to pay for this procedure until September and October of 2023 for the respective quadrants. Dr. Sullaway is unaware of any regulatory or statutory exceptions to this rule, even for medical necessity.

The appellant testified that he has a history of periodontal disease he described in layman's terms as “rapid bone loss.” He does not specifically remember when he last received periodontal scaling, but he does not dispute Dr. Sullaway's testimony. He and his dentist created a treatment plan wherein he would have eight to nine teeth pulled, he would then receive periodontal scaling to clean his remaining teeth, and he would then be fitted for dentures, for which he has already received prior authorization from MassHealth.

In November of 2022, the appellant had his teeth pulled and scheduled his appointment for periodontal scaling. When he appeared for that appointment, he was told that MassHealth would not pay for the procedure. He reports that he experiences a lot of discomfort eating and that his mental health has suffered due to his missing teeth, as his dentist will not provide dentures without the requested procedure.

Findings of Fact

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

1. The appellant is an adult MassHealth member whose pre-authorization request under Service Code D4341 for periodontal scaling and planing on all four quadrants of the member's mouth was denied (Testimony and Exhibit 1).
2. The appellant previously received the requested treatment in September and October of 2020, which is within three years of the pre-authorization request (Testimony).
3. The appellant has a medical necessity for the procedure and would otherwise qualify for coverage but for the limitation of coverage set in 130 CMR 420.427(B) (Testimony).

Analysis and Conclusions of Law

MassHealth requires providers to obtain prior authorization before administering certain medical services. 130 CMR 450.303 and 130 CMR 420.410. Such services will only be covered if they are found to be medically necessary. 130 CMR 450.204. For some services, including particular dental procedures, requests are also subject to regulatory limitations in addition to being medically necessary for MassHealth members over the age of 21:

420.421: Covered and Noncovered 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 420.456.²....

(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 420.4456 for all members 21 years of age or older **in accordance with the service descriptions and limitations set forth therein...**

- (6) periodontal services as described in 130 CMR 420.427

(Bolded emphasis added).

² 130 CMR 420.410(C) also references and incorporates 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 3, 2023).

Periodontal scaling and root planing falls under such category of services. 130 CMR 420.427(B). That regulation governing the limitations of periodontal services states, in relevant part: “The MassHealth agency pays for periodontal scaling and root planing once per member per quadrant every three calendar years...” *Id.* The regulations provide no exceptions to the allowed time period in MassHealth members who are over the age of 21. 130 CMR 420.421(C).

Here, although Dr. Sullaway indicated that the appellant meets the clinical eligibility criteria for the requested treatment, the fact that the appellant received it in September and October of 2020 precludes him from receiving coverage by MassHealth prior to September and October of 2023.

While it is unfortunate that the appellant’s treatment plan may now be delayed, the regulations provide no recourse for the appellant to receive MassHealth coverage of the procedure prior to the end of the three year period. Accordingly, MassHealth did not err in its denial of the prior authorization request, and the 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.

Mariah Burns
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA