

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2300949
<b>Decision Date:</b>	4/4/2023	<b>Hearing Date:</b>	3/24/2023
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	N/A

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Sheldon Sullaway


**Interpreter:**

N/A



*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 Dentures
<b>Decision Date:</b>	4/4/2023	<b>Hearing Date:</b>	3/24/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	 Guardian
<b>Hearing Location:</b>	Remote (Tel)	<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 January 10, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that the service requested exceeded benefit limitations (service allowed once per 84 months) (see 130 CMR 420.428 and Exhibit 7, Pg 3). The Appellant filed this appeal in a timely manner on February 6, 2023 (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 request for replacement complete denture – maxillary and complete denture – mandibular.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(F), in denying the Appellant's prior authorization request because MassHealth determined that service limitations applied and the services (complete denture – maxillary, complete denture – mandibular) are allowed only once per 84 months, thus denying the Appellant's request for replacement complete denture maxillary and mandibular.

## Summary of Evidence

The Appellant is a MassHealth member who has received complete denture maxillary (upper arch) and mandibular (lower arch). (Testimony, Exhibit 7, p.3). The dentist consultant for MassHealth testified that he is a dentist licensed to practice in the Commonwealth of Massachusetts and has been a dentist for more than 40 years. The dentist consultant further testified he is currently a professor at Tufts University School of Dental Medicine, and is a consultant for DentaQuest, the MassHealth agent responsible for administering the MassHealth dental plan. (Testimony). The dentist consultant for MassHealth testified that MassHealth will cover the cost of dentures once for a period of 84 months or 7 years as codified within the Regulations with exceptions. (Testimony, 130 CMR 428(F)(5)).

The Appellant was represented by his court-appointed legal guardian. (Testimony, Exhibit 3). The Appellant's guardian testified that in July of 2022, the Appellant was struck by a motor vehicle while he was riding a bicycle. (Testimony, Exhibit 6) The collision required the Appellant to be transported to a Boston area hospital. (Testimony, Exhibit 8) The Appellant's guardian testified when the Appellant regained consciousness, his dentures were missing. (Testimony). The Appellant's guardian testified that police had returned the Appellant's broken phone, however, the dentures were never recovered and returned to the Appellant. (Testimony) The Appellant's guardian testified that the Appellant suffered a brain injury due to the collision and he is barely able to eat. (Testimony). The Appellant's guardian testified that the Appellant's dentist indicated that bone density is deteriorating. (Testimony)

## **Findings of Fact**

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

1. The Appellant is a MassHealth member who has received complete denture maxillary (upper arch) and complete denture mandibular (lower arch). (Testimony, Exhibit 7, p.3).
2. The Appellant sought replacement dentures from MassHealth. (Testimony, Exhibit 7)
3. The Appellant's guardian testified that the dentures were lost when the Appellant was struck by a car in July of 2022 while the Appellant was riding a bicycle. (Testimony, Exhibit 6, Exhibit 8)
4. The Appellant's guardian testified that after the collision, the dentures were not returned to the Appellant. (Testimony)
5. The Appellant's guardian testified that the Appellant is having difficulty eating. (Testimony)

## **Analysis and Conclusions of Law**

MassHealth will cover the cost of dentures once for a period of 84 months or 7 years as

codified within the Regulations with exceptions. (130 CMR 420.428)

**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.

The maintenance and care of the dentures is the responsibility of the MassHealth member. There are exceptions to this service limitation explicitly stated within the Regulations. (130 CMR 420.428(F):

(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, 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.

The Appellant has the burden "to demonstrate the invalidity of the administrative

determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228. See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). Here, the Appellant's guardian testified that the dentures were lost through a collision when he was riding a bicycle and was struck by a car (Testimony).

Under the preponderance standard in this administrative proceeding, testimony, if deemed credible and reliable, can support an evidentiary finding of fact. I find the Appellant's guardian's testimony credible. The Appellant's guardian provided testimony which included details of the collision, the time when the collision occurred, and the injuries the Appellant sustained. (Testimony) Additionally, the Appellant submitted the Motor Vehicle Crash Report (Exhibit 6) as well as a more complete Motor Vehicle Crash Report (Exhibit 8) after the hearing. This testimony has the requisite indicia of reliability, is detailed, and corroborated by the Motor Vehicle Crash Reports (Exhibits 6, 8) regarding the time of collision, the fact that the Appellant, while operating a bicycle, was struck by a motor vehicle, and that the Appellant was transported to a Boston area hospital for treatment. Therefore, I credit the Appellant's guardian's testimony and find as fact that the Appellant has suffered the loss of his dentures on account of the July 2022 collision.

Pursuant to 130 CMR 420.428(F), MassHealth does not pay for the replacement of dentures if the member's denture history reveals any of the enumerated conditions including 130 CMR 420.428(F)(8) "the loss of the denture was not due to extraordinary circumstances such as a fire in the home." However, I find that the loss of the denture was due to an 'extraordinary circumstance' of being struck by a motor vehicle while riding a bicycle, and that the MassHealth Regulation explicitly carves out an exception to pay for replacement dentures in these "extraordinary circumstances" to allow for the departure from the general services limitation outlined in the Regulation. Therefore, I APPROVE the Appellant's appeal of his February 6, 2023, denial of pre-authorization for replacement dentures under these specific extraordinary circumstances.

## **Order for MassHealth**

Approve the Appellant's prior authorization request for a complete denture – maxillary (upper arch) and complete denture – mandibular (lower arch) pursuant to procedure D5110.

## **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.

## 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.

---

Patrick Grogan  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA