

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2301271

Decision Date: 5/8/2023

Hearing Date: 03/24/2023

Hearing Officer: Patrick Grogan

Record Open to: N/A

Appearance for Appellant:
Pro se

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

Appeal Decision:	Denied	Issue:	Preauthorization, Non-Covered Dental Services
Decision Date:	5/8/2023	Hearing Date:	3/24/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Remote (Tel)	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 February 8, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that services sought are not covered. (see 130 CMR 420.425 and Exhibit 5, p.3)). The Appellant filed this appeal in a timely manner on February 16, 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 procedure D6752 – crown-porcelain fused noble metal for teeth numbers 27, 28, and 31 and procedure D6242 – pontic-porcelain fused-noble metal for teeth numbered 29 and 30 because the service is not covered (Exhibit 5, pg. 3-4).

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420, to deny the request for preauthorization for dental services for the Appellant because MassHealth does not cover the specific procedures sought by the Appellant's dental provider as codified in the MassHealth Regulations and the MassHealth Dental Program Office Reference Manual.

Summary of Evidence

The Appellant is a MassHealth member who is over 21 years of age who has received dental work in the past (Testimony, Exhibit 5, p.3-4). 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 reviewed the Dental Claim Form and denial related to the Appellant's prior authorization request. (Testimony). The dental consultant testified that procedure D6752 – crown-porcelain fused noble metal and procedure D6242 – pontic-porcelain fused-noble metal services are not covered for MassHealth members who are over 21 years of age. (Testimony)

The Appellant testified that the prior authorization form was incorrectly filled out and that she does in fact have other medical coverage. (Testimony) The Appellant testified that prior authorization form was also incorrectly filled out because the Appellant has an existing bridge since 2011, but the authorization form submitted by the Appellant's dental provider indicated that the services sought are not for replacement prosthesis. (Testimony) The Appellant testified that she has two teeth that have been shaved down that are covered by the bridge. (Testimony). Additionally, the Appellant testified that she has another tooth that is decaying that is causing foul odors, foul tastes and is causing a medical concern. The Appellant testified that the only way to treat the decaying tooth is to remove the bridge and extract the tooth (Testimony). The Appellant testified that once extraction occurs, there will be no crown in place for the bridge and that is why a bridge was being requested¹. (Testimony) The Appellant continued testifying that she had looked up the Regulations, specifically, 130 CMR 420.425(D)², which she testified covered crown and bridge repairs and that she is seeking a repair and not an initial installation. The Appellant noted because the form was filled out incorrectly, no one had the benefit of understanding that she is seeking a repair. (Testimony) The Appellant described her concerns regarding major medical implications for her if her bridge is not repaired. (Testimony) In referencing the CMR, the Appellant testified that her age being over 21 years of age should not bar her from coverage for a bridge repair. (Testimony)

The dentist consultant responded that he can only deal with what was submitted, and the procedure codes submitted are not covered by MassHealth because the codes sought fusion with noble metal. (Testimony) The dentist consultant offered to provide information for the Dentaquest complaint department to explain the inaccuracies with the Dental Claim Form. (Testimony) The

¹ The Dental Claim Form submitted requests procedure D6752 (crown-porcelain fused noble metal) for teeth numbers 27, 28, and 31 and procedure D6242 (pontic-porcelain fused-noble metal) for teeth numbered 29 and 30. As the Appellant testified, the Dental Claim Form explicitly notes no request for a replacement prosthesis. (Exhibit 5, p. 5)

² It appears the Appellant was referencing 130 CMR 420.425(E) "Crown or Bridge Repair. The MassHealth agency pays for chairside crown repair for all members and fixed partial denture repair only for members younger than 21 years old. A description of the repair must be documented in the member's dental record. The MassHealth agency pays for unspecified restoration procedures for crown repair by an outside laboratory only if the repair is extensive and cannot be done chairside." However, the Dental Claim Form submitted is not seeking bridge repair. See Footnote 1.

Appellant testified that she understood the dental consultant's position, however, she was relying on the CMR and that there was no age prohibition for a chairside crown repair under the CMR. (Testimony). The dentist consultant reiterated that he can only deal with what was submitted, and that there is no coverage for the procedure that was requested through the Appellant's submission by her dental provider. (Testimony) The dental consultant reaffirmed the Appellant's ability to contact the complaint department to file a complaint, but she declined. (Testimony) The Appellant stated that there was a serious misunderstanding regarding the procedure codes and the CMRs and as a licensed attorney, she understands that the Code of Massachusetts Regulations weighs heavily, and that the procedure codes do not weigh more heavily than the Code of Massachusetts Regulations (Testimony)

When asked if she had contacted her dental provider regarding the the inaccuracies on the Dental Claim Form, the Appellant testified that the procedure codes would be exactly the same, just not an initial installation as indicated on the Form and seeking a 5-part bridge instead of 3-part bridge³. (Testimony) The Appellant testified that the procedure codes are correct, the error was regarding the preexisting bridge (Testimony). When the dental consultant was asked if the procedure codes were the same, the dental consultant reiterated that he can only speak about the dental codes that were submitted and continued to state that he received no x-rays nor any medical narrative in the appeal submission⁴. (Testimony) The Appellant stated that there was a contradiction between what the Code of Massachusetts Regulations state and what the procedure codes state, and, any ambiguity is supposed to be found in favor of the moving party, and she is the moving party. (Testimony) The dental consultant explained that MassHealth does not cover the procedure with a noble metal and provided examples of noble metals contrasted with base metals. (Testimony)

When asked if she had reviewed the Dental Manual, the Appellant indicated she had not. (Testimony) When asked if she would like the record left open to provide her an opportunity to have her dental provider cure the errors in the Dental Claim Form, the Appellant declined stating that she would be in the same place anyway and it would be denied. (Testimony) The Appellant stated that returning to her dental provider would require a whole new appeal based upon new information. (Testimony) The Appellant stated she wished a written decision to issue based on this Administrative Record. (Testimony)

Findings of Fact

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

1. The Appellant is a MassHealth member over the age of 21. (Testimony, Exhibit 1)
2. The Appellant's dental provider submitted a Dental Claim Form seeking procedure D6752 – crown-porcelain fused noble metal for teeth numbers 27, 28, and 31 and procedure D6242 – pontic-porcelain fused-noble metal for teeth numbered 29 and 30. (Exhibit 5, pg. 3-4).

³ See Footnote 1.

⁴ No x-rays nor any medical narrative was submitted as part of this Administrative Record..

3. Prior authorization for procedure D6752 – crown-porcelain fused noble metal for teeth numbers 27, 28, and 31 and procedure D6242 – pontic-porcelain fused-noble metal for teeth numbered 29 and 30 was denied. (Exhibit 5, pg. 3-4).
4. Dentaquest noted that prior authorization was denied because both procedures D6752 and D6242 are not covered services. (Exhibit 5, pg.3-4)
5. There are multiple errors in the Dental Claim Form, including inaccurately indicating that the Appellant does not have other health insurance as well as denying the existence of a pre-existing bridge. (Testimony, Exhibit 5, p.5)
6. Procedure D6752 – crown-porcelain fused noble metal for teeth numbers is not a service code 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 (Exhibit 5, pg. 3-4).
7. Procedure D6242 – pontic-porcelain fused-noble metal is not a service code 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 (Exhibit 5, pg. 3-4).

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,⁵ covered services for certain dental treatments are subject to the relevant limitations of 130 CMR 420.421 through 420.456. 130 CMR 420.421(A) and (C) provides the relevant introduction to service limitations for members over the age of 21:

420.421: Covered and Non-covered 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; and

(2) all services for EPSDT-eligible members, in accordance with 130 CMR 450.140 through 450.149, without regard for the service limitations described in 130 CMR 420.422 through 420.456, or the listing of a code in

⁵ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual (“Dental ORM” or “Dental Office Reference Manual”) 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, and service codes found in related subchapters and appendices.

Subchapter 6. All such services are available to EPSDT-eligible members, with prior authorization, even if the limitation specifically applies to other members younger than 21 years old.

...

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

- (1) diagnostic services as described in 130 CMR 420.422;
- (2) radiographs as described in 130 CMR 420.423;
- (3) preventive services as described in 130 CMR 420.424;
- (4) restorative services as described in 130 CMR 420.425;**
- (5) endodontic services as described in 130 CMR 420.426;
- (6) periodontal services as described in 130 CMR 420.427;
- (7) prosthodontic services as described in 130 CMR 420.428;
- (8) oral surgery services as described in 130 CMR 420.430;
- (9) anesthesia services as described in 130 CMR 420.452;
- (10) oral and maxillofacial surgery services as described in 130 CMR 420.453;
- (11) maxillofacial prosthetics as described in 130 CMR 420.455;
- (12) behavior management services as described in 130 CMR 420.456(B);
- (13) palliative treatment of dental pain or infection services as described in 130 CMR 420.456(C); and
- (14) house/facility call as described in 130 CMR 420.456(F). (Emphasis added)

Additionally, 130 CMR 420.425 contains the relevant description and limitations for restorative services including crowns. As to crown requests for members over the age of 21, 130 CMR 420.425(C)(2) states:

(2) Members 21 Years of Age and Older. The MassHealth agency pays for the following crown materials on permanent incisors, cuspids, bicuspid, and first and second molars:

- (a) crowns porcelain fused to ***predominantly base metal***;
- (b) crowns made from porcelain or ceramic;
- (c) stainless steel crowns only if crown porcelain fused to predominately base metal is unsuitable and extraction (the alternative treatment) would cause undue medical risk for a member with one or more medical conditions that include, but are not limited to,
 1. hemophilia;
 2. history of radiation therapy;
 3. acquired or congenital immune disorder;
 4. severe physical disabilities such as quadriplegia;
 5. profound intellectual or developmental disabilities; or
 6. profound mental illness; and

(d) posts and cores and/or pin retention. (*Emphasis added*)

Moreover, the Dental Manual further explains cast crowns, and the requirements for approval for MassHealth coverage:

15.2 Cast Crowns

Some procedures require prior authorization (D2999) documentation. Please refer to Exhibits A-F for specific information needed by code.

Documentation to be included in patient record needed for procedure:

- Appropriate pre-operative radiographs showing clearly the adjacent and opposing teeth, minimally two bitewings, and at least one periapical; or panoramic radiograph should be maintained in the patient record.

Criteria for Cast Crowns

Document compliance with the following guidelines in patient chart:

- In general, the criteria for crowns will be met only for permanent teeth needing multi-surface restorations where other restorative materials have a poor prognosis.
- Permanent molar teeth must have pathologic destruction to the tooth by caries or trauma and should involve four or more surfaces and two or more cusps.
- Permanent bicuspid teeth must have pathologic destruction to the tooth by caries or trauma and should involve three or more surfaces and at least one cusp.
- Permanent anterior teeth must have pathologic destruction to the tooth by caries or trauma and must involve four or more surfaces and at least 50% of the incisal edge.

A request for a crown following root-canal therapy must meet the following criteria:

- The request should include a dated post-endodontic treatment radiograph.
- The tooth should be filled sufficiently close to the radiological apex to ensure that an apical seal is achieved, unless there is a curvature or calcification of the canal that limits the ability to fill the canal to the apex.
- The filling must be properly condensed/obturated. Filling material should not extend excessively beyond the apex. To meet the criteria, a crown must be opposed by a tooth or denture in the opposite arch or be an abutment for a partial denture.
- The patient must be free from active and advanced periodontal disease.
- The fee for crowns includes the temporary crown that is placed on the prepared tooth and worn while the permanent crown is being fabricated

for permanent teeth.

- Cast crowns on permanent teeth are expected to last, at a minimum, five years.

Payment for crowns will not meet criteria if:

- a lesser means of restoration is possible
- the tooth has subosseous and/or furcation caries
- the tooth has advanced periodontal disease
- the tooth is a primary tooth; or
- crowns are being planned to alter vertical dimension
- The tooth is deemed unsalvageable due to caries, periodontal disease, trauma, or other pathology.

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). The Appellant's dental provider specifically requested procedures for porcelain crowns fused to noble metal. Procedures D6752 and D6242 are not services with codes listed in Subchapter 6 of the Dental Manual. Procedures D672 and D6242 are procedures which fuse porcelain crowns to noble metal, not predominately base metal, as required by the Regulation. (130 CMR 420.425(C)(2)(a)). As Dr. Sullaway testified, crown-porcelain fused noble metal (D6752) and pontic-porcelain fused-noble metal (D6242) are not procedures covered by MassHealth for members over 21 years of age. The Regulations and the Dental Manual each support the limitation as described within Dr. Sullaway's testimony. Although services may exist within the MassHealth Regulations and Dental Manual for which the Appellant may qualify, based upon the record submitted, the services sought by the Appellant's dental provider are not services covered by MassHealth members over 21 years of age. Therefore, based upon the evidence submitted, the Appellant has not met her burden to show the invalidity of MassHealth's denial of the specific services sought by her dental provider. 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.

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