

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302482
<b>Decision Date:</b>	6/5/2023	<b>Hearing Date:</b>	4/28/2023
<b>Hearing Officer:</b>	Patrick Grogan	<b>Record Open to:</b>	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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Preauthorization: Dentures
<b>Decision Date:</b>	6/5/2023	<b>Hearing Date:</b>	4/28/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South 5	<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 March 8, 2023, MassHealth denied the Appellant's application for MassHealth benefits because MassHealth determined that service requested exceeded benefit limitations (service allowed once per 84 months) (see 130 CMR 420.428 and Exhibit 1). The Appellant filed this appeal in a timely manner on March 28, 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 partial 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, partial denture – mandibular) are allowed only once per 84 months, thus denying the Appellant's request for replacement

complete denture maxillary and partial denture mandibular.

## Summary of Evidence

The Appellant is a MassHealth member under the age of 65 who is seeking a complete denture maxillary (upper arch) and partial denture mandibular (lower arch). (Testimony, Exhibit 1). 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 dentist consultant further testified that MassHealth records show that MassHealth paid for complete denture maxillary (upper arch) and partial denture mandibular (lower arch) in November of 2016<sup>1</sup>.

The Appellant testified she was concerned about her lower jaw area, and there were only 3 teeth remaining. (Testimony). The Appellant further testified that her upper denture was loose. (Testimony) The Appellant continued that she did not have enough bone to receive implants. (Testimony) Next, the Appellant testified that she never received the lower partial denture mandibular. (Testimony). The Dentaquest consultant suggested that the Appellant may wish to contact the complaint department at Dentaquest, but indicated that pursuant to the Regulations, the service limitation applied. (Testimony) The Appellant questioned the Dentaquest consultant about her x-rays and her medical condition. The Dentaquest consultant testified that he cannot diagnose a member during the Appeal process and noted that the Appellant's dental provider requested procedure D5110 for a complete upper maxillary denture and procedure D5212 for a partial lower mandibular denture. (Testimony) The Dentaquest consultant noted that no medical necessity narrative was submitted in this appeal. (Testimony) The Appellant then asked the Dentaquest consultant whether she should reach out to her PCP or obtain panoramic x-rays, and the Dentaquest consultant stated he can only address what is before him, which is the request for the dentures. The Appellant expressed her opinion that America cares for children, but not for adult and senior citizens. (Testimony) The Appellant asked why no one requested her to go to her PCP for blood work or for panoramic x-rays. (Testimony). When asked why the Appellant would wish to submit bloodwork results, she stated to show she suffers from allergies and that she needs her teeth. (Testimony) The Appellant then stated the older one gets, the more they get ignored and no one hears them. (Testimony). When asked if there was more testimony she wished to offer, the Appellant repeatedly stated that she didn't exist. (Testimony). The Appellant stated that MassHealth was going by the codes and Regulations, but that the older she got, the more she is ignored, in the world, and in America. (Testimony) The Appellant stated she was waiting for her generation to begin fighting for senior citizens. (Testimony)

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<sup>1</sup> The Dentaquest consultant testified that the service limitation expires in November of 2023.

## Findings of Fact

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

1. The Appellant is a MassHealth member under the age of 65. (Testimony, Exhibit 2)
2. MassHealth paid for a partial mandibular denture in November of 2016. (Testimony)
3. MassHealth paid for a complete maxillary denture in November of 2016. (Testimony)
4. The Appellant's dental provider submitted a request for a partial mandibular denture in March of 2023. (Exhibit 1, Exhibit 5)
5. The Appellant's dental provider submitted a request for a complete maxillary denture in March of 2023. (Exhibit 1, Exhibit 5)

## 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 testified that she required a replacement complete maxillary and partial mandibular (Testimony). The Appellant also testified that she never received the partial mandibular despite MassHealth's records indicating that the cost was covered in November of 2016. (Testimony). No further evidence was introduced to support this testimony that the Appellant never received the partial mandibular in 2016. 130 CMR 420.428 requires a member to take all possible steps to prevent the loss of the member's dentures. The Appellant provided no evidence of any steps that were taken to ascertain what happened to the partial denture mandibular in order to obtain and prevent its loss as required by the Regulation.

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 exceptions. The evidence introduced at this hearing does not support any of the enumerated exceptions: (1) no evidence was introduced to show that repair or reline will make the existing denture usable; (2) no evidence was introduced that any of the dentures made previously have been unsatisfactory due to physiological causes that cannot be remedied; (3) no evidence was introduced that a clinical evaluation suggests that the member will not adapt satisfactorily to the new denture;

(4) no evidence was introduced that a medical or surgical condition in the member necessitates a change in the denture or a requirement for a new denture; (5) no evidence was introduced that the existing denture is less than seven years old and any other condition in this list applies; (6) no evidence was introduced that the denture has been relined within the previous two years, unless the existing denture is at least seven years old; (7) no evidence was introduced that there has been marked physiological change in the member's oral cavity, and any further reline has a poor prognosis for success; and (8) no evidence was introduced that the loss of the denture was not due to extraordinary circumstances such as a fire in the home. In sum, none of the enumerated exceptions to the benefit limitation portion of 130 CMR 420.428 have been met. Therefore, the Appellant has not met her burden, by a preponderance of evidence, to demonstrate the invalidity of MassHealth's denial and 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.

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Patrick Grogan  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA