

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2302744
<b>Decision Date:</b>	6/28/2023	<b>Hearing Date:</b>	05/05/2023
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**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

<b>Appeal Decision:</b>	DENIED	<b>Issue:</b>	Prior Authorization - Dental
<b>Decision Date:</b>	6/28/2023	<b>Hearing Date:</b>	05/05/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through notice dated March 2, 2023, MassHealth denied Appellant's request for prior authorization to replace Appellant's partial upper and lower dentures on the grounds that Appellant's existing or previous dentures are less than seven (7) years old (Exhibit A). Appellant filed this appeal in a timely manner on April 5, 2023 (see 130 CMR 610.015(B) and Exhibit A). Denial of prior authorization for assistance constitutes valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization to replace Appellant's partial upper and lower dentures.

### Issue

The appeal issue is whether MassHealth properly applied the controlling regulation(s) to accurate facts when it denied prior authorization to replace Appellant's partial upper and lower dentures.

## Summary of Evidence

Both parties appeared by telephone.

MassHealth was represented by a dentist who testified that in March 2023, Appellant's dental provider submitted a prior authorization request to MassHealth seeking approval for dental services D5211 (partial upper denture) and D5112 (partial lower denture). The MassHealth representative testified that both items were denied because Appellant was previously provided with these items on December 3, 2018 and MassHealth restricts replacement of these items if they are less than seven years old.

Appellant appeared on her own behalf. Appellant testified that the dentures she received were poorly made and never fit. They were also made with two fewer teeth than her prior partial dentures had. Appellant testified that she returned the dentures to the dentist, but he acted irrationally and would do nothing to correct the dentures to make them serviceable. Appellant asserts that because she never received a working set of partial dentures, she should not be currently barred by the seven-year requirement.

When asked by the hearing officer why she waited over 4 years to seek new partial dentures, Appellant stated that the Covid pandemic delayed her action.

The MassHealth representative testified that there is a procedure for members to follow when they receive an unsatisfactory dental service. The MassHealth representative provided Appellant with the phone number and address of the dental unit that handles such complaints and instructed Appellant how to request a "complaint" form as opposed to an "appeal" form from this unit.

## Findings of Fact

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

1. Appellant is appealing the denial of a prior authorization request filed in March 2023 for partial upper and lower dentures.
2. MassHealth denied the request because Appellants existing dentures are less than seven years old.
3. Appellant was furnished with partial upper and lower dentures in on December 3, 2018.

## Analysis and Conclusions of Law

This matter is controlled by MassHealth regulation 130 CMR 420.428 which states (emphasis supplied):

*(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, 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 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 record does not evidence the applicability of conditions listed in sub sections 1-4, 6 or 7 above; therefore, subsection 5 does apply. MassHealth last furnished Appellant with partial uppers denture in December 2018. Insofar as the dentures are less than 7 years old, MassHealth properly applied the controlling regulation in denying the request.

For the foregoing reasons, the appeal is DENIED.

Appellant should follow the advice of the MassHealth representative and file a complaint (not an appeal) to have the matter of her existing partial dentures addressed by MassHealth.

## 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.

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Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA