

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302791
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	5/12/2023
<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, Procedure D4910. Periodontal Maintenance Procedures
<b>Decision Date:</b>	6/20/2023	<b>Hearing Date:</b>	5/12/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	Pro se
<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 March 23, 2023, MassHealth denied the Appellant's application for MassHealth benefits, specifically, preauthorization for procedure D4910, periodontal maintenance procedures, because MassHealth determined that services sought are not covered (see 130 CMR 420, 130 CMR 424, Exhibit 1, and Exhibit 5, pg. 3). The Appellant filed this appeal in a timely manner on April 2, 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 preauthorization for procedure D4910, periodontal maintenance procedures.

### 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 over the age of 21 who has received dental work in the past. 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 D4910, periodontal maintenance procedures, are not services covered by MassHealth.

The Appellant testified that periodontal scaling and root planing had been requested prior to the instant appeal and had been denied. (Testimony). The Appellant testified that she had appealed, and that ultimately that procedure (periodontal scaling and root planing) was approved. (Testimony). The Appellant testified that she, after consultation with her dental provider, was seeking procedure D4910, periodontal maintenance procedures. The Appellant testified that her gums are extremely sensitive. (Testimony) The Appellant testified that she had been sent to a specialist and that she would not have been sent to a specialist if it wasn't necessary. (Testimony) The Appellant testified that her dentist wanted her to come in every three months for a cleaning. (Testimony)

The dentist consultant responded that the procedure sought was not covered by MassHealth and that pursuant to the Regulations, he could not overturn the denial. (Testimony) The Appellant asked the dentist consultant if there was any other procedure number that would be covered, and the dentist consultant responded that there was not one that would cover the services the Appellant was seeking. (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. (Exhibit 5, Testimony)
2. The Appellant, through her dental provider, sought preauthorization for procedure D4910,

periodontal maintenance procedures. (Exhibit 1, Exhibit 5, Testimony)

3. MassHealth denied preauthorization for procedure D4910, periodontal maintenance procedures. (Exhibit 1, Exhibit 5, Testimony)

4. The Appellant timely appealed on April 6, 2023. (Exhibit 2)

## 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.,<sup>1</sup> 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 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;***

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<sup>1</sup> 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.

- (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)

Procedure D4910 does not appear in Subchapter 6 of the Dental Manual, nor does it appear in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456. Additionally, 130 CMR 420.427 contains the relevant description and limitations for periodontal services. 130 CMR 420.427 states:

**420.427: Service Descriptions and Limitations: Periodontal Services**

(A) Surgical Periodontal Procedures. The MassHealth agency pays for gingivectomies and gingivoplasties once per member per quadrant every three calendar years. The MassHealth agency does not pay for a gingivectomy performed on the same day as a prophylaxis, periodontal scaling and root planing, or as a separate procedure with an extraction. The MassHealth agency pays for the gingivectomy or gingivoplasty for a maximum of two quadrants on the same date of service in an office setting. Gingivectomy or gingivoplasty procedure is performed to eliminate suprabony pockets or to restore normal architecture when gingival enlargements or asymmetrical or unaesthetic topography is evident with normal bony configuration. Prior authorization is required for members 21 years of age or older.

(B) Periodontal Scaling and Root Planing. The MassHealth agency pays for periodontal scaling and root planing once per member per quadrant every three calendar years. The MassHealth agency does not pay separately for prophylaxis provided on the same day as periodontal scaling and root planing or on the same day as a gingivectomy or a gingivoplasty. The MassHealth agency pays only for periodontal scaling and root planing for a maximum of two quadrants on the same date of service in an office setting. Periodontal scaling and root planing involves instrumentation of the crown and root surfaces of the teeth to remove

plaque and calculus. It is indicated for members with active periodontal disease, not prophylactic. Root planing is the definitive procedure for the removal of rough cementum and dentin, and/or permeated by calculus or contaminated with toxins or microorganisms. Some soft tissue removal occurs. Local anesthesia is considered an integral part of periodontal procedures and may not be billed separately. Prior authorization is required for members 21 years of age or older.

(C) Non-surgical Scaling in the Presence of Generalized Moderate or Severe Gingival Inflammation - Full Mouth, after Oral Evaluation. The MassHealth agency pays for non-surgical scaling in the presence of generalized moderate or severe gingival inflammation, twice per member per calendar year. The MassHealth agency does not pay for scaling in the presence of generalized moderate or severe gingival inflammation on the same day as a prophylaxis, periodontal scaling and root planing, or surgical periodontal procedure, or as a separate procedure with a full mouth debridement or periodontal maintenance. This procedure includes the removal of plaque, calculus, and stains from supra- and sub-gingival tooth surfaces when there is generalized moderate or severe gingival inflammation in the absence of periodontitis for members who have swollen, inflamed gingiva, generalized suprabony pockets, and moderate to severe bleeding on probing.

Moreover, the Dental Manual further explains periodontal services, and the requirements for approval for MassHealth coverage:

### **15.9 Periodontal Treatment**

Some procedures require retrospective review documentation. Please refer to Exhibits A-F for specific information needed by code.

#### **Documentation needed for procedure:**

- Appropriate Diagnostic Quality Radiographs – periapical or bitewings preferred. Panoramic radiographs are not preferred.
- Complete periodontal charting supporting with AAP case type. Dentists are required to record a six-point probing with all numbers recorded once per calendar year on all remaining teeth in the mouth for adult patients. Periodontal Screening and Recording (PSR) is not to be used instead of a full- mouth charting.
- Medical necessity narrative- Include a statement concerning the member's periodontal condition, date of service of periodontal evaluation and history of previous periodontal treatment.

Periodontal scaling and root planning, per quadrant, involves instrumentation of the crown and root surfaces of the teeth to remove plaque and calculus from these surfaces. It is indicated for patients with periodontal disease and is therapeutic, not prophylactic, in nature. Root planning is the definitive procedure designed for the removal of cementum and dentin that is rough, and/or permeated by calculus or contaminated with toxins or microorganisms. Some soft tissue removal occurs. This procedure may be used as a definitive treatment in some stages of periodontal disease and as a part of presurgical procedures in others.

It is anticipated that this procedure would be requested in cases of severe periodontal conditions (i.e., late Type II, III, or IV periodontitis) where definitive comprehensive root planning requiring local/regional block anesthesia and several appointments would be indicated.

From the American Academy of Periodontology (AAP) Policy on Scaling and Root Planning:

“Periodontal scaling is a treatment procedure involving instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces. It is performed on patients with periodontal disease and is therapeutic, not prophylactic, in nature. Periodontal scaling may precede root planning, which is the definitive, meticulous treatment procedure to remove cementum and/or dentin that is rough and may be permeated by calculus or contaminated with toxins or microorganisms. Periodontal scaling and root planning are arduous and time consuming. They may need to be repeated and may require local anesthetic.”

#### **Criteria for Periodontal Treatment**

- Periodontal charting indicating abnormal pocket depths in multiple sites.
- At least one of the following is present:
  - o Radiographic evidence of root surface calculus; or
  - o Radiographic evidence of noticeable loss of bone support

Procedure D4910 does not appear in Exhibits A-F and is therefore not a service covered by MassHealth<sup>2</sup>. 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

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<sup>2</sup> No Medical Necessity Narrative was submitted into evidence in the instant hearing.

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 procedure D4910, periodontal maintenance procedures. As Dr. Sullaway testified procedure D4910, periodontal maintenance procedures, are not procedures covered by MassHealth. 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. 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.

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Patrick Grogan  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA