

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2303350
Decision Date:	7/10/2023	Hearing Date:	05/26/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Dr. Sheldon Sullaway via telephone



*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:	Approved	Issue:	Replacement of a Removable Prosthodontic
Decision Date:	7/10/2023	Hearing Date:	05/26/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South		

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 14, 2023, MassHealth denied the appellant's request for a maxillary (upper) denture under CDT code D5110 because the service is limited to once every 84 months. (See 130 CMR 420.428 and Exhibit (Ex.) 1; Ex. 7, p. 3). The appellant filed this appeal in a timely manner on April 25, 2023. (See 130 CMR 610.015(B) and Ex. 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 a maxillary denture.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428, in determining that the request should be denied.

Summary of Evidence

The MassHealth representative stated that he was a dentist licensed to practice in Massachusetts

for over 40 years, a professor at Tufts Dental School, and a consultant for DentaQuest, the company that MassHealth has contracted to administer its dental plan. The MassHealth representative stated that he also makes PA determinations.

The MassHealth representative stated that he had the appellant's PA request in front of him. (Ex. 7, p. 4). This was submitted to MassHealth on March 14, 2023, and promptly denied in a notice also dated March 14, 2023. (Ex. 1; Ex. 7, pp. 3, 4). The appellant is requesting a set of maxillary (upper) dentures under code D5110. (Ex. 7, p. 4). The MassHealth representative stated that MassHealth records indicate that the appellant last received a complete set of dentures on March 18, 2018. The MassHealth representative stated that MassHealth regulations limit this benefit to once every 84 months or seven years. Since it has been less than 84 months since the appellant received his last set of dentures, denial was proper.

The appellant stated that he had been without an upper denture for about a year. Appellant stated that during an argument his girlfriend at that time punched him in the mouth. The dentures fell out of his mouth and broke on the ground as a result. The appellant stated that he was no longer with that woman. The dentures are also too broken to fix. The appellant has had to rely on dentures for the last 20 years. The appellant stated that as a result of the loss of his upper denture he looks different and eats differently as well.

The MassHealth representative asked the appellant if he had attempted to fix the dentures. The MassHealth representative commented that the regulations state that once the dentures are placed, the appellant was responsible for their continued care and maintenance. The appellant responded that when he was punched, the dentures fell out of his mouth and shattered on concrete. The appellant did gather up the pieces at that time and brought them to his dentist. The dentist told him that they were too damaged to repair. The appellant had thrown away the remains of the upper denture since they were deemed not repairable.

Findings of Fact

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

1. The appellant received a complete set of dentures on March 18, 2018. (Testimony of the MassHealth representative).
2. The appellant submitted a PA request for a new maxillary (upper) denture on March 14, 2023. (Ex. 7, p. 4).
3. MassHealth denied the request on March 14, 2023 because it had been less than 84 months since the appellant last received a set of dentures. (Ex. 1; Ex. 7, p. 3; Testimony of the MassHealth representative).
4. The appellant has been without his upper dentures for about one year. (Testimony of the

appellant).

5. The appellant's girlfriend at that time punched him during an argument and the dentures fell out of his mouth and broke on the ground. (Testimony of the appellant).
6. The appellant brought what remained of the dentures to his dentist to repair but they were too broken for the dentist to fix. (Testimony of the appellant).

Analysis and Conclusions of Law

The regulation concerning the service descriptions and limitations for removable prosthodontics is located at 130 CMR 420.428 and contains the following paragraphs relevant to this appeal:

(A) General Conditions. **The MassHealth agency pays for dentures services once per seven calendar years per member...**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...

...

(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis and there is a favorable prognosis for treatment outcome. A tooth is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.

...

(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. (Emphases added).

The record shows that the appellant last received a complete set of dentures on March 18, 2018. The record further shows that the appellant, through his dental provider, submitted a PA request for a new set of upper dentures on March 14, 2023, a little less than five years later. Since the existing dentures were less than seven years old, MassHealth denied payment for the new set of upper dentures. This is generally a justifiable decision, unless a condition on the list immediately above applies. In this case, the record shows that the partial loss of the existing dentures was due to an extraordinary circumstance and no repair would have made those dentures usable. The appellant testified credibly that he was punched in the mouth by his girlfriend. As a result, his upper dentures were knocked to the ground and broke. The appellant stated that he did attempt to gather the damaged pieces of the denture together in order to have it repaired. The appellant stated that his dentist told him that they could not be repaired. Based on the above extraordinary circumstances, and the fact that the dentures could not be repaired, MassHealth should pay for the replacement of the appellant's upper dentures.

For the above stated reason, the appeal is APPROVED.

Order for MassHealth

Approve the PA request and pay for the dentures requested.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

DentaQuest 1, MA