

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303690
Decision Date:	09/21/2023	Hearing Date:	June 02, 2023
Hearing Officer:	Brook Padgett	Record Open:	September 01, 2023

Appellant Representative:
Pro se

CCA Representatives:
Cassandra Horne, Appeals/Grievances
Alan Finkelstein, DMD, Dental Consultant



*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:	ICO – Dental 130 CMR 420.421
Decision Date:	09/21/2023	Hearing Date:	June 02, 2023
CCA Rep.:	C. Horne, CCA	Appellant Rep.:	Pro se
Hearing Location:	Telephonic		

Authority

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

Jurisdiction

The appellant received a Commonwealth Care Alliance (Medicare-Medicaid Plan) Notice of Adverse Action dated April 21, 2023 stating her request for “D6010 Surgical Placement Of Implant Body; Endosteal Implant for Tooth #30 and D6104 Bone Graph At Time Of Implant Placement For Tooth #30, D0363 Invalid Procedure Code” had been denied. (Exhibit 1).

The appellant filed this appeal with the Board of Hearings in a timely manner on May 05, 2023. (130 CMR 610.015(B); Exhibit 2).

CCA is a MassHealth integrated care organization (ICO) and members enrolled with an ICO contractor have a right to request a fair hearing for a decision to deny or provide limited authorization of a requested service, provided the member has exhausted all remedies available through the managed care contractor’s internal appeals process. (130 CMR 610.018). The appellant exhausted CCA’s internal appeals process.

Action Taken by CCA

Commonwealth Care Alliance (CCA), a MassHealth ICO, denied the appellant's request for an implant and bone graph for tooth #30.

Issue

Did CCA correctly deny the appellant's request for an implant and bone graph for tooth #30?

Summary of Evidence

The appeals and grievance manager of CCA's dental program testified that the appellant is a MassHealth member enrolled in CCA OneCare program. She stated CCA complies with the CCA benefit structure and MassHealth regulations. The manager indicated the appellant's dental provider submitted a request to CCA for a dental implant on tooth #30. On February 25, 2023, CCA denied the request as dental implants are not a covered benefit within the appellant's benefit plan (the appellant requested surgical placement for placement of endosteal implant for tooth #30 (D6010) and bone graph at time of placement (D6104) along with a request for an invalid code (D0363)). The representative stated the appellant filed a Level 1 appeal with CCA on April 13, 2023. The Level 1 appeal was denied on April 14, 2023 and the appellant appealed that denial to the Board of Hearings. The CCA dental consultant testified that tooth #30 is a back molar and is beyond the scope of coverage by CCA or MassHealth. Since the implant (D6010) is not covered the bone graph (D6104) is unnecessary and not covered. Regarding the request for D0363 this is an invalid code and so it was also denied. The consultant suggested the appellant investigate the use of a partial denture. CCA/MassHealth submitted into evidence denial notices and Level 1 appeal (Exhibit 4), MassHealth Dental Manual (Exhibit 5), CCA Dental Manual. (Exhibit 6).

The appellant testified that she needed the implant as it is very painful and difficult for her to chew. She stated chewing is hard and it is psychologically affecting her and causing depression. The appellant stated the implant is a medical necessity as she cannot use a removable partial denture as she has very large tori¹ in her mouth which are extremely sensitive. The appellant argued she has had to chew predominately on her left side and not on her right which is causing her jaw to be painfully out of balance. The appellant indicated she has had to receive Botox injections due to the pain and her inability to eat has caused her to become hypoglycemic. The appellant submitted as evidence a narrative from her dentist along with medical notes. (Exhibit 7).

¹ Torus mandibularis is a bony growth in the mandible along the surface nearest to the tongue. Mandibular tori usually are present near the premolars.

The CCA consultant restated that the request is not a covered service by either MassHealth or CCA. The consultant stated the appellant's CCA benefit plan does not allow implants except when the individual has no teeth and the implant is used to secure a denture or if it is a front tooth. Tooth #30 is a back tooth and not covered. The consultant requested the appellant provide documentation from an Endocrinologist explaining how tooth #30 affects glycemic control; and a mental health professional detailing the appellant's psychological wellbeing.

The hearing record was extended until July 03, 2023 to allow the appellant to obtain the requested information. The appellant requested 90 days to obtain the necessary information and the parties agreed to a September 01, 2023 record open date. (Exhibit 8).

On September 05, 2023 the appellant contacted the Board of Hearings (BOH) requesting an extension of the record open period to obtain further documentation regarding the denial of an implant for tooth #30. She indicated she would be submitting documentation this week, but her pathologist wouldn't be available until the middle of October for an appointment. (Exhibit 9).

The hearing officer through BOH responded to the appellant that the record closed on September 01, 2023. The record open form which the appellant agreed to on the day of the hearing indicates that all requests for additional time must be made before the record closes. The appellant's request for additional time was made outside of the record open period and is therefore denied and a decision will be rendered based on the information contained in the record as of September 01, 2023. (Exhibit 10).

Findings of Fact

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

1. The appellant is between 19 and 64 years of age and is a member of CCA. (Testimony).
2. The appellant's dental provider submitted a request to CCA for surgical placement of an endosteal implant for tooth #30 (D6010) and bone graft at time of placement (D6104) along with a request for an invalid code (D0363). (Testimony; Exhibit 4).
3. The appellant's request for surgical placement for placement of an implant for tooth #30 and bone graft at time of placement was denied as dental implants are not a covered service within the appellant's benefit plan. (Exhibit 4).
4. The appellant's request for D0363 was denied because it is an invalid code. (Testimony; Exhibit 4).
5. On April 13, 2023, the appellant appealed CCA's denial to a Level 1 appeal and the denial was upheld on April 14, 2023. (Testimony; Exhibit 4).

6. On May 05, 2023, the appellant appealed CCA's denial to the Board of Hearings. (Exhibit 2).

Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *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).

An ICO is a managed care organization that participates in MassHealth under a contract with the MassHealth agency to provide coordinated care and medical services through a comprehensive network to eligible members. ICAs are responsible for providing enrollees with the full continuum of Medicare and MassHealth-covered services. 130 CMR 610.004. CCA, as a MassHealth ICO must provide at least those services covered by MassHealth.

The appellant, a member of CCA, a MassHealth ICO, requested surgical placement of an implant for tooth #30 and bone graph at time of placement. This request was denied as the surgical placement of an endosteal implant for tooth #30 is not a covered service under the appellant's CCA benefit plan (See Exhibit 6). Similarly MassHealth regulations specifically state that dental implants are a noncovered service for members 21 of age and over.²

The appellant is over 21 and ineligible for an endosteal implant for tooth #30 within CCA benefit plan and MassHealth regulations. The appellant's request for procedure D0363 could not be approved because it is an invalid code.

² MassHealth dental provider regulations at **130 CMR 420.421(B) address noncovered services as follows:** The **MassHealth agency does not pay for the following services for any member, except when MassHealth determines the service to be medically necessary and the member is under age 21.** Prior authorization must be submitted for any medically necessary noncovered services for members under age 21. (1) cosmetic services; (2) certain dentures including unilateral partials, overdentures and their attachments, temporary dentures, CuSil-type dentures, other dentures of specialized designs or techniques, and preformed dentures with mounted teeth (teeth that have been set in acrylic before the initial impressions); (3) counseling or member-education services; (4) habit-breaking appliances; **(5) implants of any type or description;** (6) laminate veneers; (7) oral hygiene devices and appliances, dentifrices, and mouth rinses; (8) orthotic splints, including mandibular orthopedic repositioning appliances; (9) panoramic films for crowns, endodontics, periodontics, and interproximal caries; (10) root canals filled by silver point technique, or paste only; (11) tooth splinting for periodontal purposes; and (12) any other service not listed in Subchapter 6 of the *Dental Manual*. (*Emphasis added.*)

The CCA determination is upheld and this appeal is DENIED.

Order for ICO

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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth Representative: Commonwealth Care Alliance ICO, Attn: Cassandra Horne, 30 Winter Street, Boston, MA 02108