

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved in part Denied in Part	<b>Appeal Number:</b>	2304559
<b>Decision Date:</b>	8/14/2023	<b>Hearing Date:</b>	07/14/2023
<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>	Approved in part Denied in Part	<b>Issue:</b>	Prior Authorization - Dental
<b>Decision Date:</b>	8/14/2023	<b>Hearing Date:</b>	07/14/2023
<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 May 18, 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).<sup>1</sup> Appellant filed this appeal in a timely manner on June 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).

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<sup>1</sup> MassHealth also denied 4 quadrants of deep scaling (D4341) on the grounds that each quadrant did not contain at least 4 teeth that required the service. At hearing the MassHealth representative found that 2 of the 4 quadrants do have a minimum of four teeth requiring the treatment, so he reversed and approved the scaling for the right upper and right lower quadrants, but maintained the denial for the left upper and left lower quadrants. The MassHealth representative suggested that Appellant's dentist request service code D4342 to treat the two left quadrants. During Appellant's testimony, she stated she did no care about the deep scaling and was only contesting the denial of the partial dentures. Accordingly, this decision only addresses the partial dentures, except in the Order where MassHealth is reminded to approve the two right quadrants of scaling.

## **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 Appellant's dental provider submitted a prior authorization request to MassHealth seeking prior approval for dental services D5211 (partial upper denture) and D5212 (partial lower denture). The MassHealth representative testified that both items were denied because Appellant was previously provided with these items in February 2017 and MassHealth denies replacement of these items if they are less than seven years old.

Appellant appeared on her own behalf. Appellant testified that her upper partial is broken beyond repair and she needs it to eat. Appellant stated that she doesn't use the lower partial, but she absolutely needs to upper partial to eat. Appellant testified that she has high cholesterol and needs to eat a proper diet. Appellant testified that she is a single mother and cannot afford to privately pay for the upper partial. Appellant asserted that she shouldn't have to "walk around until February of 2024 without any teeth".

## **Findings of Fact**

Based on a preponderance of the evidence, this record supports the following findings:

1. Appellant is appealing the denial of a prior authorization request for partial upper and lower dentures.
2. MassHealth denied the request because Appellant's existing dentures are less than seven years old.
3. Appellant was furnished with partial upper and lower dentures in February 2017.

4. Appellant is over the age of 21.

## Analysis and Conclusions of Law

"The burden of proof is on the appealing party to show that the order appealed from is invalid, and we have observed that this burden is heavy" (*Massachusetts Inst. of Tech. v. Department of Pub. Utils.*, 425 Mass. 856, 867, 684 N.E.2d 585 (1997)).

Medical necessity considerations do not supersede the service descriptions and limitations described in 130 CMR 420.422 through 420.456 for MassHealth members age 21 and above (130 CMR 420.421(A)).

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 upper and lower dentures in February 2017. 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 as to the replacement partial dentures and is APPROVED as to the right two quadrants of deep scaling.

## **Order for MassHealth**

Authorize D4341 for right upper and right lower quadrants as agreed during the hearing (see footnote 1, *supra*).

## **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 the Enrollment Center gives you any problems with implementing 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.

## **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