

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2304684
Decision Date:	8/11/2023	Hearing Date:	7/21/2023
Hearing Officer:	Thomas J. Goode		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Sheldon Sullaway, DMD, DentaQuest



*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:	Prior Authorization
Decision Date:	8/11/2023	Hearing Date:	07/21/2023
MassHealth's Rep.:	Sheldon Sullaway, DMD	Appellant's Rep.:	Pro se
Hearing Location:	Remote		

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 May 9, 2023, MassHealth denied Appellant's prior authorization request for dental service code D4910, Periodontal Maintenance Procedure (130 CMR 420.421(B) and Exhibit 1). Appellant filed this appeal in a timely manner on June 8, 2023 (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for dental service code D4910, Periodontal Maintenance Procedure.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.421(B), in denying Appellant's prior authorization request for dental service code D4910, Periodontal Maintenance Procedure.

Summary of Evidence

MassHealth was represented by a licensed dental consultant from DentaQuest who appeared by telephone and testified to 40 years of clinical experience, and status as a professor of dental medicine at Tufts University Dental School. On [REDACTED] 2023, a prior authorization request for procedure D4910, Periodontal Maintenance Procedure was submitted on Appellant's behalf for the purpose of increasing dental cleanings from 2 per year allowed without prior authorization to 4 per year for Appellant. The MassHealth representative testified that the MassHealth Dental Manual does not include Dental Procedure Code 4910, Periodontal Maintenance Procedure, and therefore authorization was denied pursuant to 130 CMR 420.421(B) because it is a non-covered service. The MassHealth dental consultant reviewed medical documentation submitted with the prior authorization request that shows that Appellant is diagnosed with Sjogren's syndrome which leads to a significant increase in cavities and dental decay due to a lack of saliva production (Exhibit 4). The MassHealth representative testified that additional dental cleanings are medically necessary in Appellant's case, but stated there is no code to request additional cleanings for members over 21 years of age. He added that for members over 21 years of age, prophylaxis (cleanings) is limited to 2 cleanings per member per calendar year. Because the MassHealth Dental Manual does not include dental service code D4910, the request was denied.

Appellant testified that her rheumatologist recommended that she receive quarterly dental cleanings because she cannot produce saliva to wash away food which results in increased cavities. Appellant added that her provider has requested additional cleanings for other patients, and asked what code should be used.

Findings of Fact

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

1. On [REDACTED] 2023, a prior authorization request for dental service code D4910, Periodontal Maintenance Procedure, was submitted on Appellant's behalf.
2. The MassHealth Dental Manual does not include dental service code D4910, Periodontal Maintenance Procedure.
3. The MassHealth Dental Manual does not include a code specific to additional prophylaxis treatments beyond 2 per member per calendar year for members over 21 years of age.
4. Appellant is diagnosed with Sjogren's syndrome which leads to a significant increase in cavities and dental decay due to a lack of saliva production.
5. Additional dental cleanings are medically necessary for Appellant.

6. Appellant is over 21 years of age.

Analysis and Conclusions of Law

Regulation 130 CMR 420.421(B) provides:

420.421: Covered and Noncovered 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. (emphasis added)

(B) Noncovered Services. 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 younger than 21 years old. Prior authorization must be submitted for any medically necessary noncovered services for members younger than 21 years old.

- (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*.

(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;
 - (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)

Regulation 130 CMR 420.424: Service Descriptions and Limitations: Preventive Services states:

(A) Prophylaxis. The MassHealth agency pays for prophylaxis twice per member per calendar year. The prophylaxis must include the removal of plaque, calculus, and stains from the tooth structures. MassHealth requires the provider to perform as part of this service oral hygiene instruction including but not limited to proper tooth brushing and flossing instructions and use of oral hygiene aids. The MassHealth agency does not pay a separate fee for oral hygiene instruction.

Regulation 130 CMR 420.410 states:

(B) Services Requiring Prior Authorization. The MassHealth agency requires prior authorization for:

- (1) those services listed in Subchapter 6 of the *Dental Manual* with the abbreviation "PA" or otherwise identified in billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances;
- (2) any service not listed in Subchapter 6 **for an EPSDT-eligible member¹; and**

¹ See 130 CMR 450.140: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction: (A) Legal Basis. (1) In accordance with federal law at 42 U.S.C. 1396d(a)(4)(b) and 1396d(r), and 42 CFR 441.50, and notwithstanding any limitations implied or expressed elsewhere in MassHealth regulations or other publications, the MassHealth agency has established a program of Early and Periodic Screening, Diagnostic and

(3) any exception to a limitation on a service otherwise covered for that member² as described in 130 CMR 420.421 through 420.456. (For example, MassHealth limits prophylaxis to two per member per calendar year but pays for additional prophylaxis for a member within a calendar year if medically necessary.) (emphasis added)

The MassHealth Dental Manual states³:

602 Explanation of Abbreviations and Service Code Requirements

The following abbreviations are used in Subchapter 6 with certain services that may require special reporting, as described next.

(A) Prior Authorization.

(1) “PA” indicates that service-specific prior authorization is required (see 130 CMR 420.410). The provider must include in any request for prior authorization sufficiently detailed, clear information documenting the medical necessity of the service requested and, where specified, the information described in this Subchapter 6.

(2) The MassHealth agency may require any additional information it deems necessary. If prior authorization is not required, the provider must maintain in the member’s dental record, all information necessary to disclose the medical necessity for the services provided. Pursuant to 130 CMR 420.410(B)(3), prior authorization may be requested for any exception to a limitation on a service otherwise covered for that member. (For example, MassHealth limits prophylaxis to two per member per calendar year, but pays for additional prophylaxis for a member within a calendar year if medically necessary.)⁴

For MassHealth members over 21 years of age, prophylaxis is limited to twice per calendar year per member under 130 CMR 420.424(A). An exception for additional prophylaxis when medically necessary is specified in 130 CMR 420.410(B) and applies only to EPSDT-eligible members under 21 years of age. The MassHealth representative testified that additional cleanings are medically necessary for Appellant; however, there is no corresponding dental service code or regulation that creates an exception to the service limitation imposed by 130 CMR

Treatment (EPSDT) for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, including those who are parents.(2) Any qualified MassHealth provider may deliver EPSDT services. However, in delivering well-child care, providers must follow the EPSDT Medical Protocol and Periodicity Schedule. (3) EPSDT screening services include among other things, health, vision, dental, hearing, behavioral health, developmental and immunization status screening services. (4) The regulations governing the EPSDT program are set forth in 130 CMR 450.140 through 450.149.

² “That member” refers to the EPSDT-eligible member identified in 130 CMR 420.410(B)(2). See also fn. 1. Thus, the exception for additional prophylaxis for a member within a calendar year if medically necessary is limited to EPSDT-eligible members.

³ The Dental Manual is available at: <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>

⁴ See fn. 2.

420.424(A) to allow additional dental cleanings even if medically necessary for members over 21 years of age.⁵ MassHealth also correctly determined that procedure code D4910, Periodontal Maintenance Procedure is not listed in the Dental Manual, and is not a covered service. Accordingly, the 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.

Thomas J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA

⁵ See Subchapter 6 of the Dental Manual, Section 605 to compare service codes D1206 and D1208 which create exceptions to an otherwise non-covered service for members over 21 years of age who have a medical or dental condition that significantly interrupts the flow of saliva (PA required), citing Section 602(A) above and 130 CMR 420.424(B)(1)(b) which applies only to fluoride treatments for members over 21 years of age. Section 605 of the Dental Manual shows code D1110 which does not require prior authorization for prophylaxis twice per calendar year for members 21 years of age and older but does not create an exception for additional cleanings for members over 21 years of age who have a medical or dental condition that significantly interrupts the flow of saliva.