

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2304766
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	09/05/2023
<b>Hearing Officer:</b>	Scott Bernard		

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for Respondent:**  
Cassandra Horne (the respondent's  
representative) *via telephone*  
Dr. Alan Finkelstein (the Dental Consultant) *via*  
*telephone*  
Kaley Ann Emery *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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	SCO Dental
<b>Decision Date:</b>	10/19/2023	<b>Hearing Date:</b>	09/05/2023
<b>Respondent's Rep.:</b>		<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	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 31, 2023, the respondent SCO denied the appellant's request for the following: "D2740 Crown - Porcelain/Ceramic for tooth #31." (See 130 CMR 450.204; Exhibit (Ex.) 1, p. 2; Ex. 4, pp. 60-71). The appellant filed this appeal in a timely manner on June 12, 2023. (See 130 CMR 610.015(B) and Ex. 1). Denial of assistance by an SCO is valid grounds for appeal. (See 130 CMR 610.032).

In a notice dated June 14, 2023, the Board of Hearing scheduled a telephonic hearing for July 18, 2023 at 9:00 a.m. (Ex. 7). On that date, the hearing officer, with the assistance of an Italian interpreter<sup>1</sup>, attempted to contact the appellant at 9:02, 9:06, and 9:13 am, but the appellant did not respond.<sup>2</sup> (Ex. 7). On July 25, 2023, the Board of Hearings sent the appellant a notice informing her that it had dismissed her appeal but that she could request the dismissal be vacated in writing within 10 days by explaining why she did not attend the hearing and why she did not inform the Board before the date of the hearing. (Ex. 8). The appellant submitted her request and explanation

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<sup>1</sup> At the present hearing, however, the appellant said that she speaks and understands spoken English well. The appellant stated that she requested an interpreter in her Fair Hearing Request because she does not read English well and thought that this was what was meant by requesting an interpreter. The appellant stated that she did not require an interpreter. For that reason, the interpreter contacted to assist in the hearing was permitted to exit the telephone call.

<sup>2</sup> The hearing officer noted that the interpreter contacted him at 9:45 am stating that the appellant called him back saying she did not pick up at because she was in the middle of a call at those times. (Ex. 7).

on July 26, 2023, and the Board of Hearings rescheduled the hearing accordingly. (Ex. 9; Ex. 10).

## **Action Taken by Respondent**

The respondent denied the appellant's request for dental services.

## **Issue**

The appeal issue is whether the SCO was correct, pursuant to 130 CMR 420.428 and 450.204, in determining that the request should be denied.

## **Summary of Evidence**

The appellant is over the age of 65. (Ex. 2). The respondent's representative stated that the appellant has been enrolled in the respondent's Senior Care Options program (SCO) since December 1, 2014. The respondent received a PA request from the appellant's dental provider for a porcelain/ceramic crown for tooth 13 under CDT code D2740. The respondent's dental benefit administrator denied the request on March 16, 2023 because "[t]his request is not medically necessary. This service is covered if x-rays sent by your provider show four (4) or more surfaces of the teeth are decayed. The records sent do not show four (4) or more surfaces of the tooth are decayed. The criteria used for review can be found in the clinical criteria section of the [respondent]'s provider manual." (Ex. 4, p. 15). The appellant requested a paper review of this determination on March 22, 2023. (Ex. 4, p. 41). The respondent's Dental Consultant (present at the hearing) reviewed the initial determination and upheld the denial. (Ex. 4, p. 59). On March 31, 2023, the respondent sent the appellant the notice under appeal. (Ex. 1, p. 2; Ex. 4, pp. 60-71).

The Dental Consultant confirmed that he reviewed the case for the respondent. The Dental Consultant stated that the appellant's dental provider submitted two radiographs in support of the PA request. (Ex. 4, pp. 6-7). These show that the appellant's tooth 31, which is the lower right final molar, already has a very shallow restoration/filling. The Dental Consultant stated that the restoration barely goes into the second layer of the tooth and is mostly enamel. Based on this evidence, the consultant concluded that there was no need to put a crown on that tooth and that the existing restoration was sufficient to make the tooth function. Therefore there was no need for a fuller restoration.

The appellant was very concerned and upset by the respondent's determination. She stated that she has been having more problems with her teeth recently and she was worried that she was going to lose the tooth. The appellant was upset that the respondent might pay for the tooth to be removed eventually but would not pay for its full restoration. The appellant indicated that she was not pleased with the services the respondent provided concerning her care in general.

## Findings of Fact

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

1. The appellant is over the age of 65. (Ex. 2).
2. The appellant has been enrolled in the respondent's SCO since December 1, 2014. (Testimony of the respondent's representative).
3. The respondent received a PA request from the appellant's dental provider for a porcelain/ceramic crown for tooth 13 under CDT code D2740. (Testimony of the respondent's representative).
4. The respondent's dental benefit administrator denied the request on March 16, 2023 because it determined the request was not medically necessary, explaining:

This service is covered if x-rays sent by your provider show four (4) or more surfaces of the teeth are decayed. The records sent do not show four (4) or more surfaces of the tooth are decayed. The criteria used for review can be found in the clinical criteria section of the [respondent]'s provider manual. (Ex. 4, p. 15).
5. The appellant requested a paper review of this determination on March 22, 2023. (Ex. 4, p. 41).
6. The respondent's Dental Consultant reviewed the initial determination and the two radiographs submitted by the appellant's dental provider. (Testimony of the SCO representative; Testimony of the Dental Consultant).
7. The radiographs showed that the appellant's tooth 31, which is the lower right final molar, already has a very shallow restoration/filling, which barely goes into the second layer of the tooth. (Testimony of the Dental Consultant).
8. Based on this evidence, the consultant concluded that there was no need to put a crown on that tooth, the partial restoration had been sufficient to make the tooth function and therefore there was no need for a fuller restoration. (Testimony of the Dental Consultant).
9. On March 31, 2023, the respondent sent the appellant the notice under appeal. (Ex. 1, p. 2; Ex. 4, pp. 60-71).
10. The appellant was very concerned and upset by the respondent's determination. (Testimony of the appellant).

11. The appellant has been having more problems with her teeth recently and was worried that she was going to lose the tooth. (Testimony of the appellant).

## Analysis and Conclusions of Law

MassHealth members who are 65 years of age or older may enroll in a Senior Care Organization (SCO) pursuant to 130 CMR 508.008(A). (130 CMR 508.001(C)). In order to voluntarily enroll in a senior care organization, a MassHealth Standard member must meet all of the following criteria:

- (1) be 65 years of age or older;
- (2) live in a designated service area of a senior care organization;
- (3) not be diagnosed as having end-stage renal disease;
- (4) not be subject to a six-month deductible period under 130 CMR 520.028: *Eligibility for a Deductible*;
- (5) not be a resident of an intermediate care facility for individuals with intellectual disabilities (ICF/ID); and
- (6) not be an inpatient in a chronic or rehabilitation hospital. (130 CMR 508.008(A)).

MassHealth will notify members of the availability of an SCO in their service area and of the procedures for enrollment. (130 CMR 508.008(B)). An eligible member may voluntarily enroll in any SCO in the member's service area. (*Id.*). A service area is the specific geographical area of Massachusetts in which an SCO agrees to serve its contract with MassHealth and the Centers for Medicare & Medicaid Services. (*Id.*). Service area listings may be obtained from MassHealth or its designee. (*Id.*). The list of SCOs that MassHealth will make available to members will include those SCOs that contract with MassHealth and provide services within the member's service area. (*Id.*). When a member chooses to enroll in an SCO in accordance with the requirements under 130 CMR 508.008, the SCO will deliver the member's primary care and will authorize, arrange, integrate, and coordinate the provision of all covered services for the member. (130 CMR 508.008(C)).

The appellant has been enrolled with a plan administered by an SCO since 2014 and for that reason receives her dental benefit through the SCO. The SCO must, at minimum, cover what non-managed care MassHealth covers. MassHealth pays only for medically necessary services to eligible members and may require that medical necessity be established through the prior authorization process. (130 CMR 420.410(A)(1)). Services requiring prior authorization are identified in Subchapter 6 of the Dental Manual, and may also be identified in billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances. (130 CMR 420.410(A)(2)). One such issuance is the MassHealth Dental Program Office Reference Manual (ORM), which respondent also relied upon in its decision making and which the respondent entered into the hearing record. (See Ex. 6). The ORM states that in general, the criteria for crowns will be met only for permanent teeth needing multi-surface restorations where other restorative materials have a poor prognosis. (Ex. 6, p. 34; ORM § 15.3). Permanent molar teeth must have pathologic destruction to the tooth by caries or trauma and

should involve four or more surfaces and two or more cusps. (Id.).

The appellant has not shown by a preponderance of evidence that the requested crown was medically necessary. The crown requested was for tooth 31, which is a molar. The respondent's Dental Consultant testified that the radiographs submitted with the PA request did not show that tooth 31 had pathologic destruction involving four or more surfaces. Although the appellant expressed concern regarding the loss of the tooth, she was not able to demonstrate by a preponderance of the evidence that the requested treatment was medically necessary.

For the above stated reasons, the appeal is DENIED.

## **Order for Respondent**

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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

Commonwealth Care Alliance SCO, Attn: Cassandra Horne, 30 Winter Street, Boston, MA 02108