

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2305085
Decision Date:	10/23/2023	Hearing Date:	07/28/2023
Hearing Officer:	Kenneth Brodzinski	Record Open to:	09/05/2023

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

Appeal Decision:	DENIED	Issue:	PA Replacement Dentures
Decision Date:	10/23/2023	Hearing Date:	07/28/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	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 25, 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 B](#)). Appellant filed this appeal in a timely manner on June 22, 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).

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 Appellant's request for 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 D212 (partial lower denture). The MassHealth representative testified that the request was denied because Appellant was previously provided with partial upper denture in July 2017 and MassHealth denies replacement of dentures if they are less than seven years old. The MassHealth representative also testified that the treating dentist failed to provide a treatment narrative along with the request which is also grounds for denial.

Appellant appeared on her own behalf and testified that she is unable to chew properly without her partial dentures. She testified that she has hardly any back teeth and is using her front teeth to chew.

Appellant testified that she sometimes removed her dentures when they felt uncomfortable. She did this one day a couple of months ago and placed them in her purse which was then stolen.

The record was left open in order for Appellant to verify the theft of her purse and to obtain a treatment narrative from her treating dentist relative to the partial dentures. By the record close date, Appellant did not file any documentation and made no request for additional time to make such a filing.

Findings of Fact

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

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 previous upper partial dentures are less than seven years old.
3. Appellant was furnished with partial upper and lower dentures in July 2017.
4. Appellant is over the age of 21 (Exhibit A).

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 subsections 1-4, 6 or 7

above. Appellant was given the opportunity, but failed to provide documentation or other corroborating evidence to support her assertion that her partial dentures were stolen along with her purse, thereby negating application of subsection 8. Accordingly, subsection 5 does apply. Appellant also failed to file the needed treatment narrative.

MassHealth last furnished Appellant with partial dentures in July 2017. Insofar as the dentures are less than 7 years old, MassHealth properly applied the controlling regulation in denying the subject request.

For the foregoing reasons, 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.

Kenneth Brodzinski
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA