

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2305090
Decision Date:	8/14/2023	Hearing Date:	07/28/2023
Hearing Officer:	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

Appeal Decision:	DENIED	Issue:	Prior Approval - Dental
Decision Date:	8/14/2023	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 June 14, 2023, MassHealth denied Appellant's request for prior authorization to replace Appellant's partial upper denture on the grounds that Appellant's existing or previous denture is 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 denture.

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 denture

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 D5291 (partial upper denture). The MassHealth representative testified that the request was denied because Appellant was previously provided with partial upper denture in February 2021 and MassHealth denies replacement of dentures if they are less than seven years old.

Appellant appeared on her own behalf and testified that she lost her denture. Appellant explained that she was recently sick in bed and she believes she may have placed the partial in a tissue and it was inadvertently thrown out. Appellant testified that she and her family looked everywhere in her residence for the partial but could not locate it.

Appellant further testified that she has had 18 surgeries and has been in cancer remission for the past 3 years. She explained that she eats a special diet that contains 75% raw foods. Appellant testified that she cannot eat this diet without teeth. Appellant also testified that she lives on only \$1,000.00 per month and cannot afford to privately pay to replace the denture. Appellant's testimony was consistent with a hand-written letter from Appellant dated June 22, 2023 that accompanied her hearing request (Exhibit A).

A letter from Appellant's physician dated [REDACTED] 2023 accompanied the prior authorization request. The letter corroborates Appellant's testimony concerning her health and notes that Appellant is due to have two "extensive surgeries" this fall (Exhibit B, page 3).

In response, the MassHealth representative testified that there is no medical necessity provision for the MassHealth dental program for members over the age of 21, such as Appellant. The MassHealth representative also testified that there are nutritious diets of soft foods and liquids that can supply an edentulous person with fully adequate nutrition.

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 a partial upper denture.
2. MassHealth denied the request because Appellant's previous upper partial denture is less than seven years old.

3. Appellant was furnished with a partial upper denture in February 2021.
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 a partial upper denture in February 2021. Insofar as the denture is less than 7 years old, MassHealth properly applied the controlling regulation in denying the 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