

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306755
Decision Date:	10/23/2023	Hearing Date:	09/15/2023
Hearing Officer:	Christopher Jones		

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>	Denied	<b>Issue:</b>	Prior Authorization; Adult Dental; Replacement Denture; Damaged; Extraordinary Circumstances
<b>Decision Date:</b>	10/23/2023	<b>Hearing Date:</b>	09/15/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

### 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 July 14, 2023, MassHealth denied the appellant's prior authorization request for a replacement partial upper denture. (Exhibit 5; 130 CMR 420.428(D).) The appellant filed this appeal in a timely manner on August 8, 2023. (Exhibit 2; 130 CMR 610.015(B).) Limitation of assistance is valid grounds for appeal. (130 CMR 610.032.)

### Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for a replacement upper denture because the agency had paid for dentures for the appellant within the past seven years.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(D), in determining that the appellant was ineligible for replacement dentures because MassHealth had paid for dentures within the past 84 months.

## Summary of Evidence

Dr. Sullaway is a licensed dentist who works for DentaQuest, a company contracted by MassHealth to administer dental benefits. He testified that the appellant's request for dentures was denied on the same day it was received, July 14, 2023, because MassHealth had paid for a partial upper denture on January 30, 2018. MassHealth only pays for dentures once every 84 months (seven years). There are exceptions, but he was unaware of what had happened to the appellant's dentures.

The appellant testified that she has two developmentally disabled children. She testified that she generally wears her dentures for appearances sake, and she otherwise keeps them in her nightstand drawer. She also usually keeps her bedroom door locked when she leaves the home, because she knows her daughters will play with stuff, not understanding that it is fragile. She had left her daughters with her mother and gone out of the home. When she came back, one of her daughters was in her room and was playing with her denture. She testified that her daughter had painted on it, and she felt the denture was completely destroyed. She did not bring the denture to a dentist to have it evaluated for repair, as she felt that there was no way it would be repairable. The appellant is distraught by the destruction of her denture; she loves her children, but the situation is very frustrating. She cannot afford the \$1,400 to replace the denture on her own.

Dr. Sullaway felt that this situation did not satisfy any of the exceptions for the rule that dentures can only be replaced ever 84 months. In particular, he noted that the patient is responsible for keeping their denture safe. The appellant felt this characterization was unfair as she only wears her teeth on special occasions; and otherwise keeps them locked up for safety, and that the denture was broken as the result of a child who did not know what they were doing.

## Findings of Fact

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

1. A prior authorization request was submitted on July 14, 2024, requesting coverage for a partial upper denture. MassHealth denied the request on the same day. (Exhibit 5.)
2. MassHealth purchased a partial upper denture for the appellant on January 30, 2018. (Testimony by Dr. Sullaway.)
3. The appellant only wears the denture for special occasions, for appearances sake. Otherwise, she usually kept it in her nightstand, and she usually keeps her bedroom locked when she was not home with her children. (Testimony by the appellant.)
4. The appellant's daughter got into her room and was found playing with the denture. She had painted on the denture, and the appellant believed it to be destroyed. (Testimony by the appellant.)

5. The appellant did not bring the denture to a dentist to see if it could be repaired. (Testimony by the appellant.)

## Analysis and Conclusions of Law

MassHealth pays for dental services that are medically necessary. (130 CMR 420.421(A).) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.<sup>1</sup> (130 CMR 450.204.) MassHealth's dental contractor also publishes additional guidance in the Dental Program Office Reference Manual ("ORM").<sup>2</sup> The ORM sets out requirements for how prior authorizations must be submitting, including radiographs and narratives. (See ORM, § 3.2; see also § 15.6.)

With regard to dentures, the agency has defined when they are medically necessary as follows:

420.428: Service Descriptions and Limitations: Prosthodontic Services (Removable)

(A) General Conditions. The MassHealth agency pays for dentures services **once per seven calendar years per member**, subject to the age limitations specified in 130 CMR 420.428(B). MassHealth payment includes all services associated with the fabrication and delivery process, including all adjustments necessary in the six months following insertion. The member is responsible for all denture care and maintenance following insertion. The MassHealth agency does not pay for complete dentures when the member's medical record indicates material limitations to the member's ability to cooperate during the fabrication of the denture or to accept or function with the denture, or indications that the member does not intend to utilize the denture.

...

(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

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<sup>1</sup> The Dental Manual is available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last visited October 13, 2023).)

<sup>2</sup> The Office Reference Manual is available at <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited October 13, 2023).

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.

(130 CMR 420.028 (emphasis added).)

Breaking this regulation down, subsection (A) clearly limits payment for dentures to once every seven years. However, subsection (F) allows for replacements that are "medically necessary," and the remaining language indicates that in some circumstances replacements will be allowed within seven years. It is particularly difficult to comprehend the linguistic meaning of paragraph (5). Paragraph (5) requires that one of the other conditions must **not** be met to replace dentures before seven years. The regulation is clearer if paragraph (5) is read into the preamble, the two negatives in the preamble would then allow for replacement if none of the remaining conditions were met.

This appeal is DENIED. The appellant did not bring her denture to a dentist to evaluate how bad the damage was. The appellant's own opinion was that the denture was destroyed by her daughter and irreparable. However, in the absence of an opinion to that effect from a dentist, I find that Paragraph (1) remains as a barrier to covering a replacement. Even in the absence of Paragraph (1), Paragraph (8) also weighs against the appellant's request. Neither of these factors is dispositive on its own; however, the appellant's description of how her child got a hold of her dentures and the description of the condition of the dentures was insufficient for me to find that her dentures were either irreparable or lost due to extraordinary circumstances.

## 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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA