

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2306872
Decision Date:	12/12/2023	Hearing Date:	09/22/2023
Hearing Officer:	Thomas Doyle	Record Open to:	10/11/23

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway

Interpreter:



*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:	Approved	Issue:	Prior Authorization - Dentures
Decision Date:	12/12/2023	Hearing Date:	09/22/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	Aid Pending:	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 August 4, 2023, MassHealth denied a prior authorization request for the replacement of complete upper and lower dentures. (Ex. 1). The appellant filed an appeal in a timely manner on August 9, 2023. (130 CMR 610.015; Ex. 2). A decision regarding the scope or amount of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for the replacement of complete upper and lower dentures.

Issue

Whether MassHealth was correct in denying the appellant's prior authorization.

Summary of Evidence

Appellant, acting pro se, and the MassHealth representative appeared by telephone and were sworn. MassHealth received a prior authorization request for complete upper and complete lower dentures, codes D5110 and D5120. (Testimony). The request was received and reviewed by DentaQuest Dental on behalf of MassHealth. MassHealth denied the request as the appellant received complete upper and lower dentures on May 9, 2022, (Testimony), and MassHealth does not authorize the replacement of dentures that are less than 7-years old unless the member meets one of the exceptions listed in the regulations. (130 CMR 420.428). The MassHealth representative testified that MassHealth members are responsible for denture care and maintenance. The member must take all possible steps to prevent loss of or damage to their dentures. MassHealth does not replace dentures if the member's history shows that they are less than 7 years old and no other condition warranting their replacement exists. At the conclusion of the hearing, the record was left open for appellant to obtain a written medical necessity narrative from her provider/dentist, x-rays and pictures of the dentures in her mouth. These items were received by this hearing officer and the MassHealth representative on October 10, 2023 and marked as evidence. (Ex. 6; Ex. 7). After reviewing the new evidence, the MassHealth representative stated that due to the regulations cited in his initial testimony at hearing, he had to uphold the denial. (Ex. 7).

Appellant testified on her own behalf and stated she does not have a single tooth in her head. She stated after she received the dentures, she tried to wear them for three months, returning to the dentist at least three times because the dentures did not fit properly in her mouth. She testified she obtained a second opinion and the second dentist told her the dentures did not fit properly. The additional documentation provided in the record open period included a letter from appellant's treating provider which stated:

"Patient (appellant), [REDACTED] yo female Edentulous pt presented in the office with her existing complete upper and lower dentures. U&L Complete Dentures which were made earlier in a different office didn't fit at all. Both dentures were bulky and rock from side to side even with mouth close (sic). When pt opened her mouth upper denture fell into her arm. Both dentures don't occlude properly. When Pt was trying to bite down, posterior teeth were occluding first keeping the anterior teeth wide open. Since her dentures were large, they actually pushed her lips outward, resulting in puffy lips and cheeks. Pt deemed for a new set of Upper and lower complete dentures."

Appellant stated she has not had teeth for a year and a half and it has affected her self-esteem.

Findings of Fact

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

1. MassHealth received a prior authorization request for complete upper and lower dentures. (Testimony).
2. MassHealth denied the request as the appellant received dentures in May 2022. (Testimony).
3. Appellant is bereft of any teeth in her mouth. (Testimony).
4. After receiving her dentures in May 2022, appellant attempted to wear her dentures for 3 months and returned to the dentist at least three times because the dentures did not fit properly. (Testimony).
5. Appellant went to a second dentist, who provided a written narrative describing how the dentures did not fit properly into appellant's mouth. (Ex. 6; Testimony).

Analysis and Conclusions of Law

MassHealth pays for certain dental services when medically necessary, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456. (130 CMR 420.410(A)(1); 130 CMR 420.421(A)(1)).

A service is medically necessary if

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. (130 CMR 450.204(A)).

Pursuant to 130 CMR 420.428(A), MassHealth pays for denture services once per seven calendar years per member. However, another section of the regulation is pertinent.

(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. (130 CMR 420.028 (emphasis added).)

Appellant acknowledges her dentures are less than 7 years old. However, she testified that the dentures she received did not fit properly from the moment she received them. She testified that she wore them for three months and returned to the dentist who provided the dentures at least three times. I credit her testimony.

Section F of 130 CMR 420.428 allows replacements that are "necessary," and the remaining language indicates that replacements will be allowed within seven years in some circumstances. MassHealth's denial of the prior authorization for the procedure is based solely on the fact that the appellant has exhausted the benefit limit of this service. In his response to the documents submitted by appellant in the open record period, specifically the narrative submitted by appellant's provider, the MassHealth representative gave no weight to the letter from appellant's provider found at Exhibit 6, page 1. He repeated his oral testimony that the regulations prohibit new dentures in this case and upheld the denial. It is important to note that the MassHealth representative did not examine appellant in person but the provider did examine appellant. The provider relates the dentures "did not fit at all" and "rocked side to side even when mouth close (sic)." (Ex. 6, p. 1). Together, the appellant's testimony that the dentures did not fit from the outset and she returned to the dentist at least three times, with the added evidence from appellant's provider of observing how ill-fitting the dentures are, stand in contrast to the MassHealth's testimony, oral and written, that the regulations do not allow a new set of dentures. Appellant did everything correctly. She attempted to remedy the ill-fitting dentures multiple times. With no success, she went to another dentist who confirmed the dentures were defective. Appellant has no teeth, her testimony is credible and her provider confirms the defective nature of the dentures provided to appellant. The MassHealth agency

does not pay for the replacement of dentures if the member's denture history reveals any of the following: any of the dentures made previously have been unsatisfactory due to physiological causes that cannot be remedied. (130 CMR 420.428 (F)(2)). Appellant does not have any physiological issues that cannot be remedied. The dentures were created improperly and cannot be repaired.

Appellant has met her burden and the prior authorization for upper and lower dentures is **APPROVED**.

Order for MassHealth

Authorize the appellant's prior authorization request for upper and lower dentures.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA