

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307006
Decision Date:	10/4/2023	Hearing Date:	09/28/2023
Hearing Officer:	Paul C. Moore		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Sheldon Sullaway (by 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>	Prior Authorization – Adult Dental Services, Denture Replacement
<b>Decision Date:</b>	10/4/2023	<b>Hearing Date:</b>	09/28/2023
<b>MassHealth Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant 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 31, 2023, MassHealth denied the appellant's prior authorization request for dental service code D5110 (complete upper denture) and D5120 (complete lower denture) (Exhibit 1). The appellant filed this appeal in a timely manner with the Board of Hearings (BOH) on August 14, 2023 (130 CMR 610.015(B); Exhibit 2). Denial of a prior authorization request is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for dental service codes D5110 (complete upper denture) and D5120 (complete lower denture).

### Issue

The appeal issue is whether MassHealth was correct in denying the appellant's prior authorization request.

## Summary of Evidence

A MassHealth representative from DentaQuest, the third-party contractor that administers and manages the dental program available to MassHealth members, appeared via telephone and testified as follows: on [REDACTED] 2023, MassHealth received a prior authorization request for dental service code D5110 (complete upper denture) and dental service code D5120 (complete lower denture), from the appellant's dental provider, on behalf of the appellant. According to the MassHealth representative, MassHealth denied the request on July 31, 2023 because of benefit limitations. The requested services are allowed once per member every seven calendar years (or 84 months). MassHealth records indicate that MassHealth paid for a complete upper denture and a complete lower denture for the appellant on [REDACTED] 2022, less than seven years ago (Testimony).

The MassHealth representative testified that the appellant is responsible for the care of maintenance of the dentures once they are inserted.

The appellant, who is under age 65, appeared via telephone, and testified that he has a complete lower denture, but no longer has his complete upper denture. He testified that he is currently residing in a sober home. In the past, he was homeless and living in a shelter in [REDACTED] approximately one and one-half years ago. He testified that he went to take a shower at the shelter, and left the denture unattended on his bed for about twenty minutes. When he returned from the shower, the denture was gone. He believes that another shelter resident took the denture to sell to purchase drugs. He asked the security guard at the shelter if anyone had found the denture, and the security guard told him no one had (Testimony).

The appellant stated that he is disabled, and cannot afford to pay out-of-pocket for a new upper denture (Testimony).

## Findings of Fact

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

1. On [REDACTED] 2023, MassHealth received a prior authorization request for dental service code D5110 (complete upper denture) and dental service code D5120 (complete lower denture), from the appellant's dental provider on behalf of the appellant (Testimony).
2. MassHealth denied the PA request by notice to the appellant dated July 31, 2023 because of benefit limitations, *to wit*, MassHealth pays for a new denture once per member every seven calendar years (Testimony).
3. The appellant timely appealed the denial with the BOH on August 14, 2023 (Exhibit 2).

4. The appellant received a complete upper denture and a complete lower denture, paid for by MassHealth, on [REDACTED] 2022 (Testimony).
5. The appellant still has his complete lower denture (Testimony).
6. About one and one-half years ago, the appellant left his complete upper denture unattended on his bed for about twenty minutes at a homeless shelter where he was staying, when he went to take a shower (Testimony).
7. The appellant believes the denture was stolen by another shelter resident (Testimony).

## Analysis and Conclusions of Law

MassHealth regulation 130 CMR 420.428 governs removable prosthodontic services and states the following:

- (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.

Next, pursuant to MassHealth regulation 130 CMR 420.428(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, and 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.

(Emphasis added)

The evidence shows that MassHealth paid for, and the appellant received, a new complete upper denture on [REDACTED] 2022, less than seven years ago. While it is difficult to be without a denture, pursuant to the regulations, the appellant is responsible for denture care and maintenance, and must take all possible steps to prevent the loss of his dentures.

The theft of a denture left unattended at a homeless shelter does not constitute an extraordinary circumstance warranting denture replacement under regulation 130 CMR 420.428(F)(8), above.

Under these circumstances, the appellant has not met the replacement criteria listed in 130 CMR 420.428(F) and 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.

---

Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: DentaQuest appeals representative