

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307084
Decision Date:	12/20/2023	Hearing Date:	10/31/2023
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se

Appearance for CCA:
Cassandra Horne, Appeals & Grievances
Manager, Commonwealth Care Alliance
(CCA);
Kaley Ann Emery, Appeals and Grievances
Supervisor; CCA;
Allen Finkelstein, DDS, Dental MD, CCA



*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:	Dental Prior Authorization, SCO
Decision Date:	12/20/2023	Hearing Date:	10/31/2023
ICO's Reps.:	Cassandra Horne, <i>et. al.</i> (from CCA)	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (Remote)	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

On 8/16/23, the Board of Hearings (BOH) received a fair hearing request from Appellant to challenge a denial of a Level 1 Appeal for requested dental treatment. See Exh. 1. On August 17, 2023, BOH dismissed the matter for failure to submit a copy of the agency notice/action giving rise to the appeal. See Exh. 2. On 9/27/23, BOH received a submission from Appellant that included a notice dated 6/26/23 from the Commonwealth Care Alliance (CCA), an Integrated Care Organization (ICO) and Managed Care Contractor (MCC) for MassHealth. See Exh. 3. The 6/26/23 notice informed Appellant that that it denied her Level 1 Appeal regarding her prior authorization (PA) request for coverage of dental services. See *id.* p. 5 and 130 CMR 610.032(B).¹ As Appellant's 8/16/23 fair hearing request was timely filed to challenge CCA's 6/26/23 notice, BOH vacated the dismissal and scheduled a hearing for 10/31/23.² See Exh. 5 and 130 CMR 610.015(B)(7)(a).

Action Taken by ICO

¹ Under 130 CMR 610.032(B) enrollees of an MCC, including ICO members, may request a fair hearing with BOH on grounds that include the MCC's failure to provide services in a timely manner, a decision to deny or limit authorization of a requested service, or a decision to reduce, suspend or terminate a previous authorization for a service.

² MCC enrollees, which include ICO members, have 120 days after their receipt of the MCC's final internal appeal decision to request a fair hearing from BOH. See 130 CMR 610.015(B)(7)(a).

Pursuant to a Level 1 internal appeal, CCA denied Appellant's request for a three-unit implant-supported fixed-bridge based on its determination that the requested service was beyond the scope of coverage and did not meet the criteria for medical necessity.

Issue

The appeal issue is whether CCA was correct in denying Appellant's request for dental services based on the determination that the proposed treatment exceeded the scope of coverage and was not medically necessary.

Summary of Evidence

Representatives from CCA appeared at the hearing by telephone and offered the following information through testimony and documentary evidence: Appellant is an adult under the age of 65 with dual enrollment in MassHealth and Medicare. She has been enrolled in an Integrated Care Organization (ICO) through the Commonwealth Care Alliance (CCA), also referred to CCA's "One-Care" program, since August of 2018. On 5/24/23, CCA received a PA request from Appellant's dental provider seeking authorization for CCA to cover proposed dental treatment, including a three-unit implant-supported fixed-bridge, comprised of the following 12 procedures with corresponding 7 dental codes:

- Implant Procedures & Codes:
 - D6010 - Surgical placement endosteal implant (x2 Tooth #3/#5)
 - D6104 - Bone graft at time of implant placement (x2 Tooth #3/#5)
 - D4266 - Guided tissue regeneration, natural teeth, resorbable (x2 Tooth #3/#5)
- Fixed-Bridge Procedures & Codes:
 - D6245 - Pontic, Porcelain/Ceramic (x1 Tooth #4)
 - D6068 - Abutment supported retainer for porcelain/ceramic (x2 Tooth #3/#5)
 - D6056 - Prefabricated abutment, modification and placement (x2 Tooth #3/#5)
 - D0366 - Cone Beam - One Full Dental Arch - Maxilla (x1 Tooth #00)

See Exh. 6. Attm. A, p. 2-6.

On May 26, 2023, CCA sent Appellant a "Notice of Adverse Action: Denial or Modification of a Requested Service."³ See id. at 16. According to the initial determination, CCA's dental benefit administrator denied the PA request citing the following rational:

³ It was also noted that on May 30, 2023, CCA approved a separate portion of the PA request for extractions (D7140) of teeth #1 and #2, and crown lengthening (D4249) and a crown (D2740) for tooth #6. See id. at 1-2.

This request is not medically necessary. This implant service can be covered if x-rays sent by your provider show that there is only one (1) missing front tooth in the arch. The records sent show other teeth are missing in the arch. The criteria used for review can be found in the Clinical Criteria section of the CCA Dental Provider Manual.

Id. at 17-19.

In addition, CCA denied procedure codes D0366 (cone beam – dental arch) and D6068 (abutment supported retainer for porcelain/ceramic for tooth #3/#5) on the basis that the codes were “not a covered code.” Id. at 17.

On June 12, 2023, Appellant requested reconsideration of CCA’s initial determination, prompting CCA to conduct a Level 1 internal appeal. Id. at 37. Upon review, Dr. Allen Finkelstein, CCA’s dental director affirmed the initial determination to deny the requested treatment. Through a letter dated 6/26/23, CCA notified Appellant that her Level 1 Appeal had been denied and described the basis for its determination, in relevant part, as follows:

The appeal for requested services is denied as the treatment proposed is beyond the scope of coverage and does not meet the criteria for medical necessity. According to the Member Handbook Chapter 3, Section B and Chapter 4, Section C, the services...must be medically necessary. Medically necessary means you reasonably need the services to prevent, diagnose, or treat a medical condition. It also means there is no other similar, less expensive service that is suitable for you.

Id. at 65.

At hearing Dr. Finkelstein testified on behalf of CCA and explained that, in summary, Appellant’s provider is requesting to replace three missing teeth on Appellant’s upper right posterior arch with a three-unit fixed implant-supported bridge. This procedure would first entail surgical implants of teeth #3 and #5, along with necessary periodontal and bone surgery procedures to improve the implant sites. The implanted teeth (#3 and #5) would then serve as the support for placement of a fixed bridge to replace missing tooth #4. The requested treatment is not covered under MassHealth regulations and, while CCA has limited exceptions for the services, the treatment plan here does not establish medical necessity in accordance with CCA’s clinical criteria. Referring to page 47 of the CCA provider manual, Dr. Finkelstein and other CCA representatives explained that CCA will only cover implants to support full dentures or to replace one single anterior (front) tooth. Here, the requested services are not consistent with these exceptions. Specifically, the proposed treatment is being requested to replace multiple missing back teeth, and to support a fixed bridge, not dentures. Dr. Finkelstein testified that the requested treatment is a non-reversible treatment. There was no evidence in the PA request to

show Appellant was precluded from having a reversible, less costly, partial denture, which is an alternative treatment. As such the treatment plan was denied as it is not covered and did not meet clinical criteria to qualify for CCA's limited exceptions.

Appellant appeared at the hearing telephonically and provided background regarding her long-standing history of dental issues. Appellant testified that as a child, between the ages of 3 to 6, she was kidnapped. She did not receive necessary dental and medical treatment at this time, and as a child was sick and malnourished. Years later, once her secondary teeth came in, she had multiple teeth pulled (she could not receive dental fillings due to an allergy to Novocain). About 20 years ago, she received a bridge that spanned from a wisdom tooth (which is now rotted) to the tooth that now requires a crown. Five years later, when the tooth chipped, the provider filed it down too far causing the bridge to fall out. This left a large gap in her teeth, her gums have deteriorated, and she has difficulty chewing. Appellant testified that she has been trying to have this procedure done for a long time; she is trying to fix up her smile; and trying to get her GED and become a flight attendant. If she does not receive this procedure, she will lose her bone structure entirely. Appellant asserted that her provider cannot put on a bridge without implants. Additionally, a partial denture is not an option as this would fall out without supporting teeth.

In support of her testimony, Appellant submitted a letter dated [REDACTED] signed by [REDACTED] DMD of Harvard School of Dental Medicine. Appellant explained Dr. [REDACTED] works for her usual dental provider, [REDACTED] DMD. See Exh. 4. In the letter, Dr. [REDACTED] requested that CCA allow an exception to its "dental insurance frequency limitations," so that Appellant could receive medically necessary "crowns and implants due to the partially edentulous maxilla that is causing significant problems." Id. In the letter, Dr. [REDACTED] described the basis for the requested treatment as follows:

During Appellant's last dental exam, I found that the existing dentition cannot adequately fit a removable partial denture and an implant supported bridge is necessary for [Appellant's] oral health and quality of life. The need for implants is medically necessary due to the difficulty chewing and speaking, as well as the discomfort and the risk of further loss of alveolar bone. Additionally [Appellant] would greatly benefit from implants to improve the retention of the prosthesis and limit the amount of continued residual bone resorption.

In response, Dr. Finklestein clarified that CCA never denied the PA request on the basis of exceeding "frequency limitations" as referenced in Dr. [REDACTED] letter. The provider letter, Dr. Finklestein stated, does not take into consideration the true rationale for CCA's decision, which is that implants are not a covered service under MassHealth regulations. While CCA has limited exceptions to this general rule, Appellant's PA request did not meet the clinical criteria for the services, as previously testified.

In addition, Dr. Finklestein, testified that Appellant's lack of adjacent teeth to support tooth #4

does not fully explain why she could not tolerate a partial denture. For example, the use of a “free-end partial” is a type of denture that does not require neighboring tooth support, as it uses a flexible material that adheres to the tissue. The use of this type of denture is an accepted practice in dentistry. There is no evidence why Appellant could not tolerate this, or another type of partial denture.

Findings of Fact

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

1. Appellant is an adult female under the age of 65 with dual enrollment in MassHealth and Medicare and is enrolled in CCA’s ICO “One-Care” program. (Testimony; Exh. 6 Attm. A).
2. On 5/24/23, CCA received a PA request from Appellant’s dental provider seeking authorization for CCA to cover a three-unit implant-supported fixed-bridge, comprised of the following 12 procedures with corresponding 7 dental codes D6010 - Surgical placement endosteal implant (#3/#5); D6104 - Bone graft at time of implant placement (#3/#5); D4266 - Guided tissue regeneration, natural teeth, resorbable (#3/#5); D6245- Pontic, Porcelain/Ceramic (#4); D6068 – Abutment supported retainer for porcelain/ceramic (#3/#5); D6056 – Prefabricated abutment, modification and placement (#3/#5); D0366 – Cone Beam – One Full Dental Arch – Maxilla (#00). (Testimony; Exh. 6 Attm. A).
3. On 5/26/23, CCA sent Appellant a “Notice of Adverse Action: Denial or Modification of a Requested Service” stating that her PA request was denied because the request was not medically necessary; did not meet CCA’s clinical criteria for implant services; and that codes D0366 and D6068 were not covered services. (Testimony; Exh. 6 Attm. A).
4. On 6/23/23, Appellant requested reconsideration of CCA’s initial determination, prompting CCA to conduct a Level 1 internal appeal. (Testimony; Exh. 6 Attm. A).
5. Through a letter dated 6/26/23, CCA notified Appellant that her Level 1 Appeal had been denied because the treatment proposed was beyond the scope of coverage and did not meet the criteria for medical necessity. (Testimony; Exhibit 6(A), p. 65).
6. CCA’s provider manual will cover implants only when used to support full dentures or to replace one single anterior (front) tooth. (Testimony; Exhibit 6(B), pp. 43-47).
7. Appellant has multiple missing back teeth on the upper arch. (Testimony; Exhibit 6(A))
8. Appellant has had a long-standing history of dental issues, and previously had a bridge, that is no longer useable, to address the missing teeth she seeks to replace with the requested

treatment. (Testimony).

9. Appellant's partial edentulous maxilla has caused difficulties in her ability to chew, speak, and participate in social/work interactions, and she is at risk for further loss of alveolar bone. (Testimony; Exhibit 4).

Analysis and Conclusions of Law

The Appellant is a MassHealth and Medicare member enrolled in an Integrated Care Organization (ICO), otherwise referred to as a "One-Care" program, operated by the Commonwealth Care Alliance (CCA). ICO's, such as CCA, are entities that contract state and federal Medicaid and Medicare agencies to offer "dual eligible" members, between the ages of 21 and 64, an integrated and comprehensive network of medical, behavioral-health care, and long-term services.⁴ See M.G.L. c. 118, § 9F and 130 CMR 610.004. Once enrolled, the ICO is responsible for providing its members with the full continuum of Medicare and MassHealth covered services. See 130 CMR 610.004. Whenever an ICO makes a coverage decision, it must provide notice to the affected member. See 130 CMR 508.009. An ICO has 45 days to resolve any internal appeals regarding the original coverage decision. See 130 CMR 508.010. If the ICO's internal appeals process denies a member's requested covered benefits in whole or in part, the member may appeal the decision to the Office of Medicaid Board of Hearings (BOH).⁵ See 130 CMR 610.018; see also M.G.L. c. 118E, § 48; 130 CMR 610.015(7).

The issue on appeal is whether CCA, through its internal appeals process, correctly upheld its initial determination to deny Appellant's PA request for a three-unit implant-supported dental bridge comprised of the following procedures: D6010 - *Surgical placement endosteal implant* (#3/#5); D6104 - *Bone graft at time of implant placement* (#3/#5); D4266 - *Guided tissue regeneration, natural teeth, resorbable* (#3/#5); D6245- *Pontic, Porcelain/Ceramic* (#4); D6068 – *Abutment supported retainer for porcelain/ceramic* (#3/#5); D6056 – *Prefabricated abutment, modification and placement* (#3/#5); D0366 – *Cone Beam – One Full Dental Arch – Maxilla* (#00). See Exh. 6, Attm. A, pp. 3-7.

As discussed above, as an ICO, CCA is responsible for ensuring Appellant's access to, at least, the same array of services covered under MassHealth. See M.G.L. c. 118E, § 9F; 130 CMR 508.007(C). CCA's provider manual, includes a list of dental services covered through its dental program and describes that the list is "based upon Commonwealth of Massachusetts [MassHealth]

⁴ The member must be eligible for either Standard or CommonHealth. The full list of criteria to be enrolled in an ICO is specified in the definition of "Duals Demonstration Dual Eligible Individual" at 130 CMR 610.004.

⁵ Fair Hearing regulations at 130 CMR 610.032(B) set forth the specific bases under which an ICO member, or any enrollee of a managed care contractor (MCC), may request a fair hearing. These include but are not limited to the MCC's failure to provide services in a timely manner, a decision to deny or provide limited authorization of a requested service; and a decision to reduce, suspend or terminate a previous authorization for a service.

regulations governing dental services found in 130 CMR 420.000 and 450.000.” See Exh. 6(A) at 5.

According to the MassHealth regulations cited therein, MassHealth covers dental services, when medically necessary,⁶ “that are listed in Subchapter 6 of the Dental Manual [and] in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456.” See 130 CMR 420.421(A). None of the procedure codes that were denied in this appeal are listed in Subchapter 6 of the MassHealth Dental Manual, and therefore are not covered by MassHealth. Additionally, MassHealth dental regulations state that MassHealth does *not* pay for “implants of any type or description,” nor does it pay for “fixed prosthodontic services” (such as a bridge).⁷ See 130 CMR §§ 420.421(B)(5) and 420.421(D)(2). These are explicitly identified as “non-covered” services under MassHealth dental regulations. As such, CCA did not err in denying Appellant’s Level 1 Appeal.

It is also noted that CCA has opted to provide its ICO members with a more expansive array of dental services than is offered by MassHealth. With respect to the services requested here, CCA, pursuant to its provider manual, provides limited exceptions to implants and/or fixed prosthesis. CCAs clinical criteria descriptions for “Implant, surgical placement” include required documentation showing the “replacement [is for] for 1 missing anterior [front] tooth when no other teeth (excluding 3rd molars) are missing in the arch.” See Exh. 6(B), pp. 43-47. As CCA’s dental director testified at hearing, the x-rays included in the instant PA request showed that Appellant is missing multiple posterior teeth and was seeking implants for a bridge, not a denture. Additionally, CCA will consider coverage of a “fixed bridge” in limited cases, such as where there is evidence “a corresponding partial denture would not be tolerated.” Id. As Dr. Finklestein testified, there was insufficient evidence to show Appellant was precluded from receiving an alternative, less costly treatment, such as a “free end” partial denture.

In consideration of the evidence at hearing and the coverage limitations described in MassHealth

⁶ Under 130 CMR 450.204(A), MassHealth defines a service as “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. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007, or 517.007.

⁷ Pursuant to 130 CMR 420.421(D), “[t]he MassHealth agency does not pay for the following services for members 21 years of age and older: (2) prosthodontic services (fixed) as described in 130 CMR 420.429.” The referenced provision states that “MassHealth only pays for fixed partial dentures/bridge for anterior teeth only for members younger than 21 years old and with two or more missing teeth.” 130 CMR 420.429. As Appellant is above the age of 21, she would not be considered eligible for coverage of a fixed bridge.

regulations and CCA's Provider Manual, Appellant did not demonstrate that CCA erred in denying her PA request. There was no error in CCA's 6/26/23 Denial of a Level 1 Appeal. This appeal is DENIED.

Order for CCA

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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: ICO Commonwealth Care Alliance, Attn: Cassandra Horne, 30 Winter Street, Boston, MA 02108