

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2307734
<b>Decision Date:</b>	12/26/2023	<b>Hearing Date:</b>	10/06/2023
<b>Hearing Officer:</b>	Scott Bernard	<b>Record Open to:</b>	11/06/2023

**Appearance for Appellant:**  
*Pro se via telephone*

**Appearance for MassHealth:**  
Dr. Sheldon Sullaway *via 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>	Approved	<b>Issue:</b>	Replacement of a Removable Prosthodontic
<b>Decision Date:</b>	12/26/2023	<b>Hearing Date:</b>	10/06/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Quincy Harbor South		

### 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 9, 2023, MassHealth denied the appellant's request for a mandibular partial denture under CDT code D5212 because the service is limited to once every 84 months. (See 130 CMR 420.428 and Exhibit (Ex.) 1; Ex. 5, p. 3). The appellant filed this appeal in a timely manner on August 30, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032). At the appellant's request, the record was left open until November 30, 2023 to allow him to submit further documentation into the record. The documentation was received and the record closed on November 30, 2023.

### Action Taken by MassHealth

MassHealth denied the appellant's request for a mandibular partial denture.

### Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428, in determining that the request should be denied.

## Summary of Evidence

The MassHealth representative stated that he was dentist licensed in Massachusetts for over 40 years as well as a professor at Tufts University School of Dentistry. The MassHealth representative stated that he was a consultant with DentaQuest, the agent administering MassHealth's dental program. The appellant's dental provider submitted a prior authorization request for a mandibular partial denture under CDT code D5212 on August 9, 2023. (Ex. 5, p. 4). On the same date, MassHealth determined that the PA request should be denied because of a service limitation of one denture every 84 months. (Ex. 5, p. 3). MassHealth's records showed that the appellant received a mandibular partial denture on January 12, 2023. The MassHealth representative cited 130 CMR 420.428(F)(5). The MassHealth representative stated that the provider wrote that the appellant had a seizure and that due to this, his partial fell out and was lost (See Ex. 5, p. 4). The provider wrote that the appellant called MassHealth customer service, which told him that he could get the partial replaced because it was a medical necessity and because of his seizure. The MassHealth representative stated that medical necessity only covers certain kinds of non-covered services and only for those under the age of 21. The MassHealth representative stated he was sympathetic to the appellant, but that the regulations made it the appellant's responsibility to care for the denture and therefore he would not reverse the determination at that time.

The appellant stated that he had a seizure at the rehabilitation center in which he was residing shortly after moving there. The appellant stated that he has documentation of this event to provide that it did happen. The appellant went to the hospital, but he had lost the denture while in the seizure. The appellant stated that he has followed up with a neurologist regarding his seizures and his medications have been increased. The appellant stated that he has not had a seizure since that time but that one could recur. The appellant tried sending the documentation to MassHealth, but apparently, they were not received. The appellant requested time after the hearing to submit this documentation. The record was left open until November 30, 2023 to permit the appellant to submit this documentation.

The appellant did submit documentation, which included a clinical note from the rehabilitation facility the appellant in which the appellant was residing. (Ex. 6, pp. 2, 6). This stated that the appellant had a seizure on [REDACTED] in the facility's open air area at 5:30 p.m. (Ex. 6, pp. 2, 7). The appellant was then taken to the emergency room where he reported that he was missing his denture. (Ex. 6, pp. 2, 7). The ER reported this back to the facility at 6:00 p.m. (Ex. 6, pp. 2, 7). The nurse at the facility looked for the appellant's dentures where he had the seizure, as well as in his bedroom and bathroom but did not find them. (Ex. 6, pp. 2, 7). At the ER, the doctor was concerned that the appellant may have swallowed the dentures.<sup>1</sup> (Ex. 6, pp. 2, 7). The appellant returned to the facility later that evening. (Ex. 6, pp. 2, 7).

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<sup>1</sup> Due to the illegibility of the text in this part of the note, it is unclear what the doctor did. Since the appellant did not testify that he had swallowed the dentures, it is more likely than not that the doctor's concern was unfounded.

## Findings of Fact

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

1. The appellant's dental provider submitted a prior authorization request for a mandibular partial denture under CDT code D5212 on August 9, 2023. (Ex. 5, p. 4).
2. On the same date, MassHealth determined that the PA request should be denied because of a service limitation of one denture every 84 months. (Ex. 5, p. 3).
3. MassHealth's records showed that the appellant received a mandibular partial denture on January 12, 2023. (Testimony of the MassHealth representative).
4. The appellant was residing at a rehabilitation facility on [REDACTED]. (Testimony of the appellant).
5. On that date, the appellant experienced a seizure in the facility's open air area at 5:30 p.m. (Ex. 6, pp. 2, 7).
6. The appellant was taken to the ER, where he reported that he had lost his denture. (Testimony of the appellant; Ex. 6, pp. 2, 7).
7. The ER relayed this information to the facility. (Ex. 6, pp. 2, 7).
8. A nurse at the facility looked for the appellant's dentures in the area where the appellant had his seizure, as well as in his bedroom and bathroom, but did not find them. (Ex. 6, pp. 2, 7).

## Analysis and Conclusions of Law

The regulation concerning the service descriptions and limitations for removable prosthodontics is located at 130 CMR 420.428 and contains the following paragraphs relevant to this appeal:

(A) General Conditions. **The MassHealth agency pays for dentures services once per seven calendar years per member...**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...

...

(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis and there is a favorable prognosis for treatment outcome. A tooth

is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.

...

(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.** (Emphases added).

The record shows that the appellant received a partial denture in January 2023. In [REDACTED] 2023, the appellant lost his denture after experiencing a seizure. While the appellant was in the ER, staff at the facility tried to find the denture where the appellant had the seizure as well as in his bedroom and bathroom, but could not find them. Under normal circumstances, MassHealth would be correct in denying the appellant's subsequent request for a new partial denture. In this case, however, the appellant has provided substantial and credible evidence that the loss of the denture was due to the extraordinary circumstance of undergoing a seizure, rather than negligence on his part. The appellant should be permitted to receive a new denture, and MassHealth should cover the cost.

For the above stated reasons, the appeal is APPROVED.

## **Order for MassHealth**

Approve the PA request and cover a new mandibular partial denture.

## **Implementation of this Decision**

If this decision is not implemented within 30 days after the date 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.

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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

DentaQuest 1, MA