

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308711
Decision Date:	02/06/2024	Hearing Date:	10/31/2023
Hearing Officer:	Casey Groff, Esq.	Record Closed:	01/12/2024

Appearance for Appellant:
Pro se

Appearance for ICO:
Cassandra Horne, Appeals & Grievances
Manager, Commonwealth Care Alliance
(CCA);
Kaley Ann Emery, Appeals and Grievances
Supervisor; CCA;
Allen Finkelstein, DDS, Dental Medical
Director, 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 Services; Prior Authorization; ICO
Decision Date:	02/06/2024	Hearing Date:	10/31/2023
ICO 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 9/1/23, the Commonwealth Care Alliance (CCA), an Integrated Care Organization (ICO) and Managed Care Contractor (MCC) for MassHealth, denied Appellant's level 1 appeal regarding an initial denial of requested dental treatment. See Exh. 1. On 9/22/23, the Board of Hearings (BOH) received a fair hearing request from Appellant, however the request was unsigned and did not reference the underlying action that Appellant was seeking to appeal. See Exh. 2. On 9/22/23 and 9/25/23, BOH issued respective dismissal notices to Appellant informing him that he had 10 days to demonstrate the existence of an appealable action and authorization to appeal. See Exhs. 3 and 4. On 10/22/23, BOH received a sufficient response, signed by Appellant, to vacate the dismissal and process a timely appeal of CCA's 9/1/23 denial.¹ See Exh. 5 and 6. An MCC's final decision to deny coverage is valid grounds for appeal. See 130 CMR 610.032(B).

A hearing was conducted on 10/31/23. See Exh. 6. At the conclusion of the hearing, the record was left open at Appellant's request to submit additional evidence and a written explanation in support of his appeal and for CCA to review and respond. See Exh. 8. After giving CCA an

¹ Once an ICO member exhausts the ICO's internal appeal process to dispute an adverse coverage determination, the member may file a "Level 2" appeal with the Office of Medicaid Board of Hearings (BOH). See 130 CMR 610.018; see also M.G.L. c. 118E, § 48; 130 CMR 610.015(7).

opportunity to respond, the record closed on 1/12/24. See Exh. 9.

Action Taken by ICO

Pursuant to a Level 1 appeal, CCA affirmed its decision to deny Appellant's PA request for coverage of dental treatment because (1) the provider was out-of-network, and (2) the documentation in the PA request failed to establish medical necessity for the proposed treatment.

Issue

The appeal issue is whether CCA correctly denied Appellant's request for multiple surgical tooth extractions with alveoplasty on grounds that (1) the treating provider was out-of-network, and (2) the documentation failed to establish medical necessity for the proposed dental procedures.

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 male under the age of 65 with dual enrollment in MassHealth and Medicare. He has been enrolled in CCA's Integrated Care Organization (ICO), or "One-Care" program, since January of 2021. In August of 2023, CCA received a prior authorization (PA) request, sent on behalf of Appellant, by oral surgeon [REDACTED] seeking coverage for surgical extraction of Appellant's 13 remaining lower teeth (#s 22-32) under code D7210 - *Extraction, Erupted Tooth* (x13) in conjunction with alveoplasty of the lower left and right quadrants under procedure code D7310 (x2). See Exh. 7(A), pp. 1-6. Through notices dated 8/18/23 and 8/19/23, CCA informed Appellant and [REDACTED] that the PA was denied because the "provider is out of network." See id. 5-6, 48.

On 8/31/23, Appellant, through his provider, requested reconsideration of CCA's initial determination, prompting CCA to conduct an impartial "level 1" internal appeal. See id. at 53. In support of the request, [REDACTED] submitted a letter of medical necessity explaining that Appellant has a history of oral cavity carcinoma and due to undergoing related surgery and radiation therapy, Appellant developed significant loss of bone support of the lower teeth. Id. at 9. As such, [REDACTED] explained, Appellant "requires extraction of all his remaining lower teeth...with alveoplasty in preparation for dentures" to be performed under IV sedation in an operating room. Id. The letter also noted that Appellant was at high risk of "osteo-radio necrosis of the jaw secondary to his radiation therapy." Id. A copy of a 6/2/23 encounter note was included with the letter, which detailed the provider's assessment and treatment plan for Appellant. See id. at 10-16.

On review, CCA's dental director, Allen Finkelstein, DDS affirmed CCA's initial PA request denial. See Exh. 1 and Exh. 7(A) at 55-57. On 9/1/23, CCA issued a "Notice of Adverse Action, Denial of Level 1 Appeal" to Appellant and his provider explaining the basis for the level one appeal outcome. Id. at 56. In the 9/1/23 letter, CCA also referenced, as a basis for denying treatment, that the documentation submitted with the PA request failed to demonstrate medical necessity for the proposed treatment, which is a requirement of coverage detailed in CCA's Member Handbook Chapter 3, Section B. Id. at 56.

At hearing, the CCA testified that it has a comprehensive and wide selection of network providers, including dentists and oral surgeons. One-Care members must use in-network providers to obtain covered services. There are limited exceptions, such as when there are no in-network providers available to perform a service; however, there was no explanation within the PA request that justify an exception. CCA testified that a provider search revealed that CCA has plenty of in-network providers in close proximity to Appellant who are capable of providing the requested treatment.

As to the second basis for the denial, Dr. Finkelstein explained on behalf of CCA, that the PA request sought coverage for the extractions under procedure code D7210. This code is used when performing "surgical extractions" and exceeds the level of treatment necessary for extracting Appellant's teeth. Dr. Finkelstein explained that a review of radiographs showed Appellant has severe loss of supporting bone for the lower teeth, which indicates that the extractions can be performed as a "simple extraction" covered under procedure code D7140. Dr. Finkelstein explained that a simple extraction is a less-complex procedure as compared to a surgical extraction, which requires the use of multiple surgical techniques to extract the tooth. Given Appellant's bone loss, there is no justification for using the more costly and invasive procedures contemplated under D7210. Dr. Finkelstein testified that in adopting MassHealth standards on medical necessity, CCA will only pay for a covered service if there is no other similar, less expensive service that is suitable to the member. Here, a simple extraction is an equally effective, less costly alternative service available.

Appellant appeared at hearing and testified that he is not at fault for the incorrect coding and should not have necessary services denied on this basis. Appellant also explained that on 9/11/23, after his Level 1 Appeal was denied, he received the requested dental treatment and had his remaining teeth extracted. Because it was not covered, Appellant paid approximately \$7,500 out-of-pocket, which he borrowed from his aunt. Appellant testified that he could not delay the procedure because he was already receiving hyperbaric oxygen chamber treatments in preparation for the procedure. Appellant asserted that CCA had already approved the oxygen therapy, which was a necessary component for the requested dental treatment. Specifically, he prepared for the extractions by receiving two hours of oxygen therapy per day for the week leading up to the procedure, as well as the following week.

Prior to hearing, Appellant submitted two different CCA approval notices that showed the following: On 8/7/23 CCA approved Appellant's PA request, submitted by a different health care

provider, for coverage of G0277 – *Hyperbaric Oxygen under pressure, full body chamber*, for dates of service 7/28/23 – 10/1/23. See Exh. 5. Additionally, on 8/23/23, CCA approved a separate PA request from [REDACTED], for authorization of anesthesia/sedation under codes 41899 and 00170. Id.

In response, Dr. Finkelstein testified that neither the PA request or the documentation submitted by the provider made any mention of oxygen treatment or referenced that it was part of the overall treatment plan. CCA representatives noted that the request for oxygen therapy had been submitted by an in-network provider and was unrelated to the dental procedures at issue.

CCA's appeals & grievance coordinator testified that because Appellant already received the treatment, he would not be able to resolve the matter through resubmitting a new/corrected PA request, which only provides advance authorization of a treatment. Rather, Appellant could pursue alternative resolution by filing a "request for reimbursement," which is a separate process available through CCA.²

Findings of Fact

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

1. Appellant is an adult male under the age of 65 and is enrolled in CCA's ICO One-Care program.
2. Appellant underwent oral surgery and radiation therapy related to treatment of oral cancer, and as a result of the treatments, lost a significant amount of the supporting bone in the lower jaw.
3. Due to the bone loss, Appellant's oral surgery provider, [REDACTED], [REDACTED] recommended extraction of all Appellant's remaining lower teeth with alveoloplasty in preparation for dentures.
4. In August of 2023, [REDACTED] sent a PA request on behalf of Appellant seeking coverage for surgical extraction of Appellant's 13 remaining lower teeth (#s 22-32) under code D7210 - *Extraction, Erupted Tooth* (x13) in conjunction with alveoloplasty of the lower left and right quadrants under procedure code D7310 (x2).

² At the end of the hearing, the record was left open at Appellant's request to submit a written response and/or additional evidence support of this appeal, as well as to determine whether the matter could be resolved through filing a request for reimbursement of the out-of-pocket expense. Despite the record-open period, BOH did not receive any supporting documentation or any evidence to indicate the matter on appeal had been resolved via alternative means.

5. [REDACTED] is not a participating provider in CCA's provider network.
6. On 8/18/23, CCA denied Appellant's PA because treatment sought was through an out-of-network provider.
7. On 8/31/23, Appellant requested reconsideration of CCA's initial determination, which included a letter of medical necessity and encounter notes from the requesting provider.
8. CCA's dental director conducted an impartial review of the initial coverage determination and through its internal appeal process, upheld CCA's initial denial of the requested treatment.
9. On 9/1/23, CCA sent Appellant and his provider a "Notice of Adverse Action, Denial of Level 1 Appeal" indicating that CCA affirmed the PA denial, and cited, as a secondary basis for its decision, that the provider failed to establish medical necessity for reimbursement of the requested procedures.
10. The PA request did not address why the use of surgical extraction (D7120), as opposed to a simple extraction (D7140), was necessary to extract Appellant's lower teeth.
11. CCA has available in-network providers located near Appellant, who are qualified to perform the requested dental treatment (i.e. extractions with alveoloplasty).
12. On 8/7/23, CCA approved a separate PA request sent on behalf of Appellant for hyperbaric oxygen therapy, which had been submitted by an in-network provider.
13. The PA request submitted by [REDACTED] did not refer to hyperbaric oxygen therapy or indicate that this intervention was part of the proposed dental treatment plan.
14. Following the 9/1/23 denial and prior to hearing, Appellant underwent the scheduled extractions and alveoloplasty, and as a result paid approximately \$7,500 in out-of-pocket expenses for the uncovered treatment.

Analysis and Conclusions of Law

This appeal addresses whether CCA appropriately denied Appellant's request for dental services

pursuant to its Level 1 Appeal denial dated 9/1/23. Appellant is a MassHealth and Medicare (“dual eligible”) member enrolled in CCA’s Integrated Care Organization (ICO) or “One-Care” program. Through contracts with federal and state agencies, ICO’s assist dual eligible members with coordinating and integrating all components of care based on each member’s independent health care needs. See M.G.L. c. 118E, § 9F. As an ICO, CCA has a comprehensive network of health care providers and is responsible for ensuring that One-Care members receive the full continuum of Medicare and Medicaid covered services. See id.; see also 130 CMR 610.004. CCA’s administration of covered dental services is based upon MassHealth regulations 130 CMR 420.000 (dental services) and 130 CMR 450.000 (administrative and billing regulations). See Exh. 7(B), p. 5.

Here, Appellant’s dental provider submitted a PA request seeking coverage to perform multiple surgical extractions with alveoloplasty in preparation for dentures. While the requested procedures are “covered services” under MassHealth dental regulations, as adopted by CCA,³ payment for a covered service is still “subject to all conditions and [program] restrictions, including all applicable prerequisites for payment.” See 130 CMR § 450.105. Because the PA request failed to satisfy the necessary prerequisites of payment and conditions of coverage, CCA did not err in denying Appellant’s PA request. CCA appropriately cited two grounds to deny the requested treatment, namely that: (1) the provider was not an in-network provider, and (2) the documentation submitted did not demonstrate medical necessity for the proposed treatment.

First, there was no dispute at hearing that the dental provider who submitted Appellant’s PA request is not an active in-network CCA provider. When a MassHealth member enrolls in an ICO, they “must obtain services through the ICO.”⁴ See 130 CMR 508.007(C). It is the ICO’s responsibility to “authorize, arrange, integrate and coordinate the provision of all covered services for the member.” Id. Just as MassHealth will only pay for services rendered by providers enrolled in MassHealth’s network, CCA requires that members “must get [their] care from [CCA] network providers.”⁵ See 130 CMR §§ 420.404m 420.410(A)(1); see also CCA Member Handbook, Ch. 1, § J(2), p. 12.⁶ Because this threshold prerequisite for payment was not established, CCA had

³ Coverage of these services is found in Subchapter 6 of the MassHealth Dental Manual and in CCA’s Provider Manual entered into evidence as Exh. 7(B).

⁴ According to its Administrative and Billing regulations, MassHealth “does not pay a provider other than the ICO for any services that are provided by an ICO while the member is enrolled in the ICO, ... It is the responsibility of the provider of services to determine if a MassHealth member is enrolled in an ICO.” 130 CMR 450.105(A)(7).

⁵ According to the member handbook, CCA’s network is comprised of a variety of healthcare providers, including dentists, who have agreed to accept payment from CCA for covered services as payment in full. See id. Additionally, according to CCA’s provider handbook, in-network providers have signed agreements acknowledging that they “must comply with the most current version of the aforementioned MassHealth dental and administrative/billing regulations.” See Exh 7C, p. 5.

⁶ The current version of CCA’s ICO member handbook is publicly available through CCA’s website at: https://www.commonwealthcarealliance.org/ma/wp-content/uploads/2024/01/H0137_2024-Member-Handbook_FINALv4-12062023upload20240104.pdf

sufficient grounds to deny Appellant's PA request.

Although CCA has carved out exceptions to its restriction on use out-of-network providers, these are limited to "unusual circumstances," such as the unavailability of local in-network providers to perform services, or if there is evidence that a member would be harmed by having the treatment performed by someone other than the out-of-network provider. See id. at 36-37. At hearing, CCA testified that it was able to locate multiple in-network providers within close proximity to Appellant capable of rendering the necessary treatment. Despite the availability of in-network providers, there was no explanation in the PA request to justify CCA's approval of the treatment through an out-of-network provider. Absent such evidence, CCA did not err in denying the PA request on this basis.

Moreover, even if Appellant established appropriate grounds to use an out-of-network provider, the PA request failed to demonstrate medical necessity to obtain reimbursement for surgical extractions under procedure code D7210. MassHealth and CCA will only pay for services that are medically necessary." Under MassHealth regulation, 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.***

See 130 CMR 450.204.

Likewise, CCA will not cover services for ICO members "that are not medically necessary according to the standards of Medicare and MassHealth." See CCA Member Handbook, at 113. Additionally, CCA explicitly excludes from coverage "clinical situations that can be effectively treated by a less costly, dental appropriate alternative procedure..." See Exh. 7(C) at 39. At hearing, CCA's dental director testified that due to significant bone loss in Appellant's lower jaw, as evidenced by radiographs, extraction of the lower teeth could be accomplished without use of surgical techniques encompassed under procedure code D7210. Rather, the documentation showed Appellant's teeth could be successfully extracted using a less-costly effective alternative "simple extraction" procedure, which is reimbursable under code D7140. Because the PA request did not satisfy all conditions and prerequisites of payment, including use of an in-network provider or documentation of medical necessity for the selected procedure codes, CCA did not err in denying Appellant's request for dental treatment.

Based on the foregoing, this appeal is DENIED.

Order for ICO

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