

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2309000
<b>Decision Date:</b>	01/02/2024	<b>Hearing Date:</b>	10/31/2023
<b>Hearing Officer:</b>	Casey Groff	<b>Record Closed:</b>	11/10/2023

**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 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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Dental Services; Prior Authorization; Implants; ICO; Over 65
<b>Decision Date:</b>	01/02/2024	<b>Hearing Date:</b>	10/31/2023
<b>ICO Reps.:</b>	Cassandra Horne, et. al. (from CCA)	<b>Appellant's Rep.:</b>	<i>Pro se</i>
<b>Hearing Location:</b>	Board of Hearings (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 9/5/23, the Commonwealth Care Alliance (CCA), an Integrated Care Organization (ICO) and Managed Care Contractor (MCC) for MassHealth, informed Appellant it denied her Level 1 Appeal regarding requested dental services. See Exh. 1, p. 2. On 9/28/23, Appellant filed a timely appeal with Board of Hearings (BOH) to dispute the decision.<sup>1</sup> See id. at 3. An MCC's final decision to deny coverage is valid grounds for appeal. See 130 CMR 610.032(B).<sup>2</sup> A hearing was conducted on 10/31/23. See Exh. 2. At the conclusion of the hearing, the record was left open until 11/10/23 to await receipt, and consideration, of additional dental records, which Appellant expected were being sent by her provider. See Exh. 7.

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<sup>1</sup> 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).

<sup>2</sup> Under 130 CMR 610.032(B), MassHealth members enrolled in an ICO program 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.

## Action Taken by ICO

Pursuant to a Level 1 internal appeal, CCA denied Appellant's request for a surgical implant and crown 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 coverage of a surgical implant and crown based on a determination that the proposed treatment exceeded the scope of coverage and that it 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 over the age of 65 with dual enrollment in MassHealth and Medicare. She has been enrolled in CCA's Integrated Care Organization (ICO) "One-Care" program since January of 2020. On 8/16/23, CCA received a Prior Authorization (PA) request from Appellant's dental provider seeking coverage of the following five (5) dental procedures for missing tooth #5:

- D6010 - *Surgical placement of endosteal implant*
- D6059 – *Abutment Supported Porcelain Fused to Metal Crown*
- D6190 – *Radiographic/Surgical Implant Index*
- D7953 – *Bone Replacement Graft for Ridge Preservation*
- D6057 – *Custom Fabricated Abutment – Includes Placement*

See Exh. 4, p. 1-5.

The PA request also sought coverage for placement of a crown and related procedures to be performed on tooth #6. See id. CCA approved the requested treatment for tooth #6;<sup>3</sup> however, on 8/16/23, denied the requested the five procedures for tooth #5, pursuant to its "Notice of Adverse Action: Denial or Modification of a Requested Service." Id. at 16. According to CCA's initial determination, CCA's dental benefit administrator denied the PA request because: (1) codes D6190 (Radiographic/Surgical Implant Index, By report) and D7953 (Bone Replacement Graft) were not "covered code[s];" and (2) codes D6010 (surgical placement of implant body), D6059 (Abutment Supported Porcelain), and D6057 (Custom Fabricated Abutment) were denied based on the following rationale:

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<sup>3</sup> CCA issued a separate letter on 8/17/23 approving the requested treatment for tooth #6. See id. at 10.

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 14-15.

On August 29, 2023, Appellant requested reconsideration of CCA's initial determination, prompting CCA to conduct a Level 1 internal appeal. Id. at 40. Upon review, Dr. Allen Finkelstein, CCA's dental director, upheld the initial determination to deny the requested treatment. Through a letter dated 9/5/23, 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 56.

At the hearing, Dr. Finkelstein testified on behalf of CCA and explained that, in summary, Appellant's provider is seeking to replace missing tooth #5 with an implant and crown, and to provide related surgery procedures to improve the implant site. He further stated that dental implants are not covered under MassHealth regulations, and, while CCA has limited exceptions for the services, the treatment plan and documentation submitted failed to demonstrate medical necessity in accordance with CCA's clinical criteria. Dr. Finkelstein testified that the PA request only included a single x-ray of Appellant's existing bridge that focused on one tooth. In addition, the treatment plan included with the PA request was incomplete.

Referring to its provider manual, the CCA representatives explained that CCA only covers implant services when it is (1) used to replace one missing anterior (front) tooth when no other teeth are missing in the arch; and (2) a maximum of 2 mandibular or maxillary anterior implants for the purpose of supporting a denture where there is minimal ridge present. See Exh. 5, p. 43. Here, there was evidence that Appellant has more than one missing tooth and there was no indication the implant is being used to support a denture. Dr. Finkelstein explained that there was no documentation by the provider to explain why Appellant would be precluded from having an alternative, less costly, treatment available.

Appellant appeared at hearing by telephone and testified that she is currently undergoing the treatment that her dentist requested. For background, Appellant explained that she previously had a bridge in the location that she is obtaining treatment for now. Her dentist had to remove the bridge to extract a rotten tooth and has already started the requested bone grafting procedures. Appellant explained that this was an urgent dental issue because she was getting sick from the rotten tooth and needed it removed. Without her bridge, and with the missing teeth, she was unable to chew or digest food properly. Because of this, she has since received the implant, as well as placement of the new bridge. Appellant testified that she paid for the procedures by credit card, but still wishes to appeal because she believes it should be covered.<sup>4</sup>

Appellant also testified that prior to hearing, she had her dental provider send a full set of x-rays to support the PA request. As these records had not been received at the time of hearing, Appellant indicated that it was possible the records were still in the mail. On this basis, the record remained open until 11/10/23 to await receipt, and consideration, of additional dental records on behalf of Appellant. See Exh. 7. Following the hearing, no additional records were received.

In response, Dr. Finkelstein stated that the requested treatment had no mention of a bridge; but rather, only requested the implant for tooth #5 and crown for tooth #6. He noted that this absence further demonstrated the inadequacy of the provider's treatment plan. CCA also noted that because Appellant had already received and paid for the services under appeal, she could seek to obtain a request for reimbursement, which is a separate process through CCA unrelated to this appeal.

## Findings of Fact

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

1. Appellant is an adult CCA "One-Care" ICO member over the age of 65 with dual enrollment in MassHealth and Medicare. (Testimony; Exhibit 4).
2. On 8/16/23, CCA received a PA request from Appellant's dental provider seeking coverage for the following 5 dental procedures for missing tooth #5: D6010 - Surgical placement of endosteal implant; D6059 – Abutment Supported Porcelain Fused to Metal Crown; D6190 – Radiographic/Surgical Implant Index; D7953 – Bone Replacement Graft for Ridge Preservation; D6057 – Custom Fabricated Abutment. (Testimony; Exhibit 4).
3. The only x-ray included in the PA request was a single image focused on one tooth.

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<sup>4</sup> CCA indicated that because Appellant has already received, and paid for, the services, she could pursue a request for reimbursement through a different CCA process separate from this appeal.

4. On 8/16/23, CCA denied the five (5) requested dental procedures for tooth #5 on the basis that the codes were either not covered codes or that the provider had not demonstrated medical necessity to meet CCA's limited exceptions for coverage of implants. (Testimony; Exhibit 4, p. 16).
5. On 8/29/23, Appellant requested reconsideration of CCA's initial determination, prompting CCA to conduct a Level 1 internal appeal. (Testimony; Exh. 4, p. 40).
6. Through a letter dated 9/5/23, 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; Exhibits 1 and 4, p. 56).
7. Per CCA's provider manual, CCA will cover implants only when used to support full dentures or to replace one single anterior (front) tooth. (Testimony; Exhibit 4, pp. 43-47).
8. Appellant has already started the treatment on tooth #5 and has incurred out of pocket expenses for the treatment.

## 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.<sup>5</sup> 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).<sup>6</sup> 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

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<sup>5</sup> 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.

<sup>6</sup> 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.

initial determination to deny Appellant's PA request for a surgical implant and crown comprised of the following procedures: (1) D6010 - *Surgical placement of endosteal implant*; (2) D6059 - *Abutment Supported Porcelain Fused to Metal Crown*; (3) D6190 - *Radiographic/Surgical Implant Index*; (4) D7953 - *Bone Replacement Graft for Ridge Preservation*; (5) D6057 - *Custom Fabricated Abutment*. See Exh. 4, p. 1-5.

As discussed above, as an ICO, CCA is responsible for ensuring Appellant has access to at least the same array of services covered under MassHealth.<sup>7</sup> See M.G.L. c. 118E, § 9F; 130 CMR 508.007(C). According to its regulations, MassHealth covers dental services, "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" when medically necessary.<sup>8</sup> See 130 CMR 420.421(A). None of the procedure codes requested for tooth #5 appear 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." See 130 CMR 420.421(B)(5). 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.

Additionally, CCA has opted to provide ICO members with a broader array of dental services than offered by MassHealth. With respect to the services requested here, CCA, pursuant to its provider manual, provides limited exceptions to non-coverage of implants, such as when the "replacement [is for] for 1 missing anterior [front] tooth when no other teeth (excluding 3<sup>rd</sup> molars) are missing in the arch." See Exh. 5 at 43-47. As CCA's dental director testified at hearing, the provider's treatment plan, included in the PA request, was incomplete, and was accompanied by a single x-ray that focused on one tooth. Following the hearing, the record remained open to await additional x-rays Appellant claimed had been sent by her provider. See Exh. 7. Despite the additional time, no information was received. In consideration of the evidence at hearing and the coverage limitations described in MassHealth 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 9/5/23 denial of Appellant's level 1 appeal.

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<sup>7</sup> 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] regulations governing dental services found in 130 CMR 420.000 and 450.000." See Exh. 6(A) at 5.

<sup>8</sup> 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.

Based on the foregoing, 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.

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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:

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