

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2309181
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	11/03/2023
<b>Hearing Officer:</b>	Radha Tilva		

**Appearance for Appellant:**

Pro se



**Appearance for MassHealth:**

Dr. Sheldon Sullaway, DentaQuest consultant



*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>	PA - denture
<b>Decision Date:</b>	11/30/2023	<b>Hearing Date:</b>	11/03/2023
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South	<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 August 24, 2023, MassHealth denied the appellant's prior authorization request for a partial upper denture (procedure D5211) (Exhibit 1). The appellant filed this appeal in a timely manner on October 2, 2023 (see 130 CMR 610.015(B)(1) and Exhibit 2). Challenging a prior authorization request for a partial upper denture is valid grounds for appeal (see 130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied appellant's prior authorization request for a partial upper denture.

### Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization request for a partial upper denture.

### Summary of Evidence

MassHealth was represented by a dental consultant to who appeared by telephone and testified that he has been practicing as a dentist for over 40 years. In addition, he is a professor at Tufts University School of Dental Medicine. The MassHealth consultant stated that MassHealth received a prior authorization request on August 24, 2023 for a maxillary upper partial denture (D5211). This request was denied because of service limitations imposed by MassHealth at 130 CMR 420.428(F)(5) which allows for dentures once every 84 months. The MassHealth representative explained that appellant received dentures on September 14, 2020. The representative further testified that the patient is responsible for the care of dentures under 130 CMR 420.428(A). In addition, the representative stated that appellant's provider has failed to document which teeth are an abutment and which teeth are being replaced as required per MassHealth's Office Reference Manual.<sup>1</sup> The MassHealth representative testified that he does not think that appellant's reason for requesting a replacement denture qualifies as an extraordinary circumstance.

Appellant appeared by telephone along with an attorney at hearing. The appellant's attorney stated that pursuant to 130 CMR 420.428(F)(8) appellant qualifies for a replacement denture because she meets an extraordinary circumstance. The appellant submitted a number of documents including an affidavit (see Exhibit 5). The affidavit details the following history: appellant has a son who is in his twenties and diagnosed with autism, which impacts his daily living, including his cognitive and social abilities. He is prone to being mentally, emotionally, and physically abusive towards her because of the influence of his father. His father encourages him to trash her apartment and harm her. He assaults and bruises her. She has had to call the police on him. He lives with her though she is trying to secure alternative housing for him. In the past he has thrown out important things to her including her jewelry and a dental crown. One evening in June 2023 she placed her dentures on a shelf at bedtime and in the morning when she woke up they were gone. They were no where to be found in her trash, but she believes her son threw them outside of the home. She was too frightened to confront her son right away because of his abusive nature. Without her dentures she has no front teeth making it difficult to chew and she is also embarrassed to be out in public (Exhibit 5, pp. 11-12).

A medical record confirming the son's diagnosis was provided by appellant's attorney (Exhibit 5, p. 13). In addition, a letter from a dentist was also provided and stated that he believed there was great validity to appellant's claims regarding the loss of her denture as he and other faculty members have witnessed and seen significant bruising on her upper extremities (Exhibit 5, p. 10).

The attorney concluded that MassHealth did not list any secondary reason for the denial on any of the notices and that the appellant's testimony along with her affidavit support an extraordinary

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<sup>1</sup> The ORM states that one (D5211) per 84 Month(s) Per patient. Pre-op radiographs of all teeth in arch with claim for prepayment review. Documentation must indicate that there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition is sound and there is a good prognosis (last seen November 27, 2023).

circumstance under the regulations which would allow for MassHealth to pay for the replacement of dentures.

## **Findings of Fact**

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

1. MassHealth received a prior authorization request on August 24, 2023 for a partial maxillary denture.
2. MassHealth denied the prior authorization request on or around August 24, 2023.
3. Appellant previously received a denture from MassHealth on September 14, 2020.
4. The appellant's son lives with her and is autistic and physically abusive towards her.
5. The appellant's son has a history of throwing appellant's items out including her jewelry.
6. Appellant placed her denture in the bedroom on a stand like she usually does one evening in June 2023.
7. The next morning appellant could not find her denture where she left it or in any of her trash.
8. MassHealth allows for a replacement of a denture if the loss is due to an extraordinary circumstance.

## **Analysis and Conclusions of Law**

Pursuant to 130 CMR 420.428(A) MassHealth pays for denture services once per seven calendar years per member. There is no dispute that appellant received her dentures on or around September 14, 2020, however, appellant contends that she no longer has them because her son threw them out without her permission thus equating to an extraordinary circumstance. 130 CMR 420.428(F) governs MassHealth's requirements for replacement dentures:

(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.***

(Emphasis added). Appellant contends that her son throwing the denture out qualifies as an extraordinary circumstance under 130 CMR 420.428(F)(8). The appellant's affidavit and testimony are credible and corroborate her testimony that her son has abusive behaviors which include hurting appellant and throwing out her belongings. The letter from the dentist further supports the testimony. Based on the above regulations MassHealth was incorrect in denying appellant's prior authorization request for a partial upper denture. This appeal is APPROVED.

## Order for MassHealth

Rescind denial dated August 24, 2023 and approve appellant's prior authorization request for D5211 a partial upper denture.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation 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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Radha Silva  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

