

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2309423
Decision Date:	11/29/2023	Hearing Date:	11/10/2023
Hearing Officer:	Emily T. Sabo		

Appearances for Appellant:



Health Care Agent

Appearance for MassHealth:

Sheldon Sullaway, DDS, DentaQuest



*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:	Approved	Issue:	Dental; Denture Replacement; Over 65
Decision Date:	11/29/2023	Hearing Date:	11/10/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway, DentaQuest	Appellant's Rep.:	Pro Se & Health Care Agent
Hearing Location:	Quincy Harbor South (Telephone)	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

Through a notice dated September 13, 2023, MassHealth denied Appellant's prior authorization request for a complete upper denture (D5110). 130 CMR 420.428 and Exhibits 1 and 5. Appellant filed this appeal in a timely manner on October 5, 2023. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's request for a complete upper denture because he exceeded the benefit limitation.

Issue

The appeal issue is whether MassHealth was correct in denying the Appellant's request for dentures due to having exceeded the MassHealth benefit limitation.

Summary of Evidence

The MassHealth representative, a Massachusetts licensed dentist and consultant for DentaQuest, appeared at the hearing by telephone. DentaQuest is the third-party contractor that administers and manages MassHealth's dental program. Through testimony and documentary submissions, the MassHealth representative presented the following evidence: Appellant is a MassHealth member over the age of 65. On September 13, 2023, MassHealth received a prior authorization request from the Appellant's dental provider at [REDACTED] seeking approval for coverage of a complete maxillary denture (upper arch) under procedure code D5110 and a complete mandibular denture (lower arch) under procedure code D5120. Exhibit 2 at 3; Exhibit 5 at 3. The prior authorization request indicated that the Appellant had lost weight and needed new dentures to be able to eat. Exhibit 2 at 6. On September 13, 2023, MassHealth denied prior authorization approval for a complete maxillary denture (upper arch) under procedure code D5110 because of benefit limitations as the service is allowed once per 84 months.¹ Exhibit 2 at 3; Exhibit 5 at 3.

The MassHealth representative testified that MassHealth previously approved Appellant for the requested treatment and paid his then-dental provider for the completed services on January 6, 2020. Under 130 CMR 420.428(F)(5), MassHealth will only replace a member's dentures once every 84 months, or 7 years. The MassHealth representative explained that because the Appellant received coverage for a complete upper denture within 7 years, he is ineligible for a replacement upper denture at this time.

The Appellant and the Appellant's representative and health care agent appeared at the hearing by telephone and verified the Appellant's identity. The Appellant's representative testified that the Appellant received his initial denture from [REDACTED] of [REDACTED] in [REDACTED] MA. The denture did not fit the Appellant properly and was disproportionate to his natural teeth. The Appellant discussed the matter with [REDACTED] and [REDACTED] was unable to readjust the denture to fit the Appellant. [REDACTED] agreed to remake the denture for the Appellant. However, the Appellant was diagnosed with Parkinson's disease and in September 2021 had to have emergency surgery, as the Appellant's lung cancer had spread to his brain. After the surgery, the Appellant received chemotherapy and radiation. When the Appellant returned to [REDACTED] determined that the Appellant's bottom three teeth needed to be removed and recommended that the removal be performed by an oral surgeon considering the Appellant's complex health conditions.

Because the Appellant continued to have very low white blood cell counts, the oral surgeon and the Appellant's oncologist decided that it would be best to wait on any dental treatments until the

¹ The notice indicates that MassHealth did not review the request for a complete mandibular denture (lower arch) under procedure code D5120 because prior authorization is not required.

Appellant's health conditions stabilized. The oral surgeon extracted the Appellant's three bottom teeth in July 2023. When the Appellant then returned to [REDACTED] the Appellant learned that [REDACTED] had retired and sold his practice to [REDACTED]. Prior to the hearing, Appellant included a letter from his primary care physician, [REDACTED] M.D., dated [REDACTED] 2023, which stated that the Appellant suffers from Parkinson's disease, is undergoing treatment for lung cancer, and needs dentures to help with the Appellant's treatment and to immensely improve his nutrition. The Appellant's representative testified that the Appellant's lack of proper dentures has also caused digestive and speech problems.

Findings of Fact

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

1. The Appellant is a MassHealth member over the age of 65 (Testimony).
2. On September 13, 2023, MassHealth received a prior authorization request from the Appellant's dental provider at [REDACTED] seeking approval for coverage of a complete maxillary denture (upper arch) under procedure code D5110 (Testimony; Exhibit 2 at 3; Exhibit 5 at 3).
3. MassHealth previously approved Appellant for the coverage of a complete maxillary denture (upper arch) under procedure code D5110 on January 6, 2020, and paid his then-provider for the services, accordingly (Testimony).
4. On September 13, 2023, MassHealth denied Appellant's prior authorization request for the maxillary denture based on the determination that he had reached the benefit limitation for dentures, which are covered once per 84 months (Testimony).
5. The dental provider that was paid for the Appellant's initial set of dentures determined that they could not be repaired or fixed with a reline. He agreed to remake the dentures for the Appellant but retired and sold his practice (Testimony).
6. Due to the Appellant's Parkinson's disease, cancer, surgery, radiation, and chemotherapy, his medical team advised that his health conditions stabilize before he received any dental treatment (Testimony).
7. The Appellant's inability to use his existing denture has harmed his nutrition and recovery with negative impact to his health (Testimony; Exhibit 2 at 4).
8. Three of the Appellant's bottom teeth were removed in July 2023 (Testimony).

Analysis and Conclusions of Law

At issue in this appeal is whether MassHealth correctly denied Appellant's prior authorization request for a complete maxillary denture.

MassHealth pays for dental services that are medically necessary. 130 CMR 420.421(A). Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000 et seq, and the MassHealth Dental Manual.² 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.

130 CMR 450.204(A).

MassHealth dental regulations governing coverage of removable prosthodontics states, in relevant part, the following:

(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...***

...

(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:***

² The Dental Manual is available on MassHealth's website, in the MassHealth Provider Library. Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

- (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.

130 CMR 420.428 (emphases added).

The Appellant does not dispute that his maxillary dentures are less than seven years old. However, the Appellant's physician and representative presented sufficient testimony and evidence regarding the Appellant's health and nutritional needs to demonstrate that a replacement is medically necessary and falls under the exceptions to the rule barring payment for replacement within seven years. Further, the Appellant's Parkinson's diagnosis and cancer treatment, along with the removal of his three bottom teeth, are intervening medical and surgical conditions requiring a new denture. 130 CMR 420.428(F)(4). These circumstances, along with the retirement of the original dental provider, were outside the control of the Appellant. 130 CMR 420.428(F). Therefore, the Appellant provided sufficient evidence to demonstrate that replacement of the complete upper maxillary denture is medically necessary. Accordingly, the appeal is approved.

Order for MassHealth

Approve the Appellant's September 13, 2023, prior authorization request for dental procedure code D5110 – complete maxillary denture (upper arch).

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.

Emily T. Sabo, Esq.
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA

[REDACTED]