

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2311691
Decision Date:	2/7/2024	Hearing Date:	12/15/2023
Hearing Officer:	Thomas Doyle		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway



*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:	Prior Authorization-Dental, Occlusal Guard; Over Age 21
Decision Date:	2/7/2024	Hearing Date:	12/15/2023
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Remote (phone)	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 October 18, 2023, MassHealth denied the appellant's request for prior authorization for an occlusal guard. (130 CMR 420.456 (D); Ex. 4). The appellant filed this appeal in a timely manner on October 18, 2023. (130 CMR 610.015(B); Ex. 2). Challenging a denial of services is valid grounds to appeal before the Board of Hearings. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's prior authorization request for an occlusal guard.

Issue

The appeal issue is whether MassHealth was correct in denying appellant's prior authorization for an occlusal guard.

Summary of Evidence

Appellant is a MassHealth member over the age of 20 who appeared at hearing by telephone. MassHealth was represented at hearing by Dr. Sullaway, a consultant for DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. He also appeared by telephone. Dr. Sullaway testified he has 40 years experience as a dentist and is a professor at Tufts Dental School.

Dr. Sullaway testified that appellant's dentist had requested prior authorization so appellant could obtain an occlusal guard, code D9944. He stated the request was denied by DentaQuest because the service is not covered for people over the age of 20 and he cited the regulation located at 130 CMR 420.456 (D). Appellant is in her mid-50's. Dr. Sullaway upheld the denial.

Appellant appeared pro se. She did not have any questions for Dr. Sullaway. She testified she understood that obtaining an occlusal guard is not a covered service for adults. She stated in the past she has paid for an occlusal guard herself but lost it in 2022. She then suffered a broken tooth. She testified she feels she has a medical necessity, and was hoping for an exception. She testified she has stage 4 kidney disease. She cannot obtain vaccinations for Covid due to several comorbidities. It is important for her not to have to go to the dentist because she is not vaccinated.

Findings of Fact

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

1. Appellant is a MassHealth member in her mid-50's. (Testimony; Ex. 6).
2. MassHealth denied a prior authorization request for an occlusal guard for appellant, code D9944. (Testimony; Ex. 4).
3. Appellant paid for a mouth guard in the past with her own funds, but she lost it. (Testimony).

Analysis and Conclusions of Law

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). Moreover, "[p]roof by a preponderance of the evidence is the standard generally applicable to administrative proceedings." Craven v. State Ethics Comm'n, 390 Mass. 191, 200 (1983).

130 CMR 420.456: Service Descriptions and Limitations: Other Services

...

(D) Occlusal Guard. The MassHealth agency pays for occlusal guards **only for members**

younger than 21 years old and only once per calendar year. The MassHealth agency pays for only custom-fitted laboratory-processed occlusal guards designed to minimize the effects of bruxism (grinding) and other occlusal factors. All follow-up care is included in the payment. (emphasis added).

420.421: Covered and Non-covered Services: Introduction

(A) Medically Necessary Services. The MassHealth agency pays for the following dental services when medically necessary:

(1) the services with codes listed in Subchapter 6 of the Dental Manual, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456; and

(2) all services for EPSDT-eligible members, in accordance with 130 CMR 450.140 through 450.149, without regard for the service limitations described in 130 CMR 420.422 through 420.456, or the listing of a code in Subchapter 6. All such services are available to EPSDT-eligible members, with prior authorization, even if the limitation specifically applies to other members younger than 21 years old.

(B) Non-covered Services. The MassHealth agency does not pay for the following services for any member, **except** when MassHealth determines the service to be medically necessary **and the member is younger than 21 years old**. Prior authorization must be submitted for any medically necessary non-covered services for members younger than 21 years old. (emphasis added).

- (1) cosmetic services;
- (2) certain dentures including unilateral partials, overdentures and their attachments, temporary dentures, CuSil-type dentures, other dentures of specialized designs or techniques, and preformed dentures with mounted teeth (teeth that have been set in acrylic before the initial impressions);
- (3) counseling or member education services;
- (4) habit-breaking appliances;
- (5) implants of any type or description;
- (6) laminate veneers;
- (7) oral hygiene devices and appliances, dentifrices, and mouth rinses;
- (8) orthotic splints, including mandibular orthopedic repositioning appliances;
- (9) panoramic films for crowns, endodontics, periodontics, and interproximal caries;
- (10) root canals filled by silver point technique, or paste only;
- (11) tooth splinting for periodontal purposes; and
- (12) any other service not listed in Subchapter 6 of the Dental Manual.

By regulation, MassHealth only pays for occlusal guards for members younger than 21 years old. (130 CMR 420.456(D)). Appellant is a MassHealth member in her mid-50's. MassHealth will only pay for certain dental services that are medically necessary. Those services are listed in

Subchapter 6 of the Dental Manual. Appellant requested a medical necessity be found for her request for an occlusal guard. Her requested procedure code is D9944 and that procedural code is not covered for a person 21 years of age or older and is not listed in Subchapter 6 of the Dental Manual; therefore, a medical necessity cannot be found for appellant.

Appellant is a MassHealth member over the age of 20. As discussed above, by regulation, she is not covered for a occlusal guard.

Therefore, this appeal is denied.

Order for MassHealth

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA