

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2312552
Decision Date:	3/12/2024	Hearing Date:	01/12/2024
Hearing Officer:	Scott Bernard	Record Open to:	01/26/2024

Appearance for Appellant:




Appearance for MassHealth:

Dr. Sheldon Sullaway *via* video conference



*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:	Prior Authorization (PA) Request for Dental Services/Removable Dentures/Replacement
Decision Date:	3/12/2024	Hearing Date:	01/12/2024
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	
Hearing Location:	Taunton MassHealth Enrollment Center	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 6, 2023, MassHealth denied the appellant's request for upper and lower dentures under CDT codes D5110 and D5120 because the benefit for replacement dentures is limited to once every 84 months. (See 130 CMR 420.428 and Exhibit (Ex.) 1; Ex. 6, p. 3). The appellant filed this appeal in a timely manner on December 4, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

At the appellant's request, the record was left open until January 26, 2024 in order to allow the appellant to submit further evidence, at which time it closed.

Action Taken by MassHealth

MassHealth denied the appellant's request for a complete set of upper and lower dentures.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428, in determining that the request should be denied.

Summary of Evidence

The MassHealth representative, who appeared via videoconference, identified himself as a dentist licensed to practice in Massachusetts for over 40 years in addition to having been a professor at Tufts University School of Dental Medicine for 25 years. The MassHealth representative stated that he was appearing in his capacity as a consultant with DentaQuest, which is the MassHealth agent responsible for administering the MassHealth dental plan and for making the prior authorization determinations for dental services.

The MassHealth representative testified that he had copies of the prior authorization request, and the basis of the denial. (Ex. 6). On October 6, 2023, the appellant's dental provider submitted prior authorization requests for procedure number D5110, a complete upper denture, and procedure number D5120, a complete mandibular or lower denture. (Testimony; Ex. 6, p. 4). DentaQuest promptly denied both requests on the same date because of benefit limitations. (Testimony; Ex. 1; Ex. 6, p. 3).

The MassHealth representative explained that the limitation is described in MassHealth regulations at 130 CMR 420.428(F)(5). This regulation states that a MassHealth member is limited to receiving one set of dentures paid for by MassHealth once every 84 months, or seven years. (Testimony; Ex. 6, p. 3). MassHealth records show that the appellant received upper and lower dentures on August 17, 2020, less than 84 months or seven years prior to the October 6, 2023 request. (Testimony). The MassHealth representative stated that the appellant's file contained a note which stated that the appellant lost her dentures. (Testimony). The MassHealth representative testified that although 130 CMR 420.428 lists eight exceptions to the 84 month/seven year limitation, loss of the dentures is not one of those exceptions. The MassHealth representative stated that pursuant to 130 CMR 420.428(A), MassHealth members are also responsible for the care of their dentures after receiving them. (Testimony). The MassHealth representative stated that for these reasons he would not reverse the denial.

The appellant, who appeared in person¹, testified to the following. The appellant lost her dentures at her daughter's wedding reception on [REDACTED] 2023. (Testimony). The venue's air conditioner broke during the reception and because of the heat, the groom, who is diabetic, suffered two grand mal seizures. (Testimony). The appellant is a nurse, and quickly went to attend to him. (Testimony). She removed her dentures in case she needed to perform mouth to mouth resuscitation. (Testimony). The appellant explained that she would be able to form a better seal

¹ The appellant was accompanied by one of her daughters, who did not speak during the hearing.

for this if she did not have her dentures in. (Testimony). As it turns out, performance of mouth to mouth ended up being unnecessary. (Testimony). The appellant did not have any denture adhesive and could not put the dentures back in her mouth. (Testimony). The EMTs arrived and the appellant went to the wedding party's room so she could put her dentures somewhere safe. (Testimony). She wrapped them in a napkin and put them in her make up bag and put the makeup bag in her daughter's purple bag. (Testimony).

As the groom was being taken to the hospital by emergency responders, guests started departing and some were stealing the décor. (Testimony). The remaining members of the wedding party began moving their stuff and the large amount of remaining décor into a U-Haul truck. (Testimony). The appellant thought at this point that her daughter's purple bag was among the things that were put in the U-Haul. (Testimony). The appellant later noticed that her daughter's purple bag was missing. (Testimony).

The wedding venue was closed from July 1 through July 4. (Testimony). Once the hall reopened, the appellant returned with her daughter and some friends. (Testimony). They looked inside and outside the building, under tables, in the trash, in the dumpster, and in the parking lot including under cars. (Testimony). They did not find the purple bag or the appellant's dentures. (Testimony). The appellant called other wedding guests, including out of state guests, but no one had the purple bag or saw who took the purple bag. (Testimony). At this point the appellant felt that she had exhausted her options, and went to her dentist who submitted the request for new dentures to MassHealth. (Testimony).

The appellant submitted signed statements from the bride and groom concerning the events on the night of the reception including the groom's medical event. (Ex. 7; Ex. 8). The appellant also submitted a statement from her son stating that he helped load and unload the U-Haul van after the reception, and did not see a purple bag in it. (Ex. 9). The appellant took pains to emphasize that she did not lose the dentures, they were stolen from her. (Testimony). The appellant admitted that she did not file a police report regarding the missing property though. (Testimony).

The MassHealth representative testified that even after considering the appellant's testimony, he did not think the situation she described fell within the exceptions listed in 130 CMR 420.428.

At the appellant's request, the record was left open until January 26, 2024 so that she could submit any reports from official emergency sources (police, fire, etc.) documenting the incident that occurred during her daughter's wedding reception.² (Testimony; Ex. 10). On January 26, 2024, the appellant submitted 10 pages of documentation. (Ex. 11). This included an emergency responder report confirming that EMTs were called to attend to the groom on [REDACTED] 2023 and that he was taken to the hospital. (Ex. 11). She also submitted a copy of the invitation for the [REDACTED] 2023 wedding reception which did, in fact, occur at the location the appellant identified in her

² The MassHealth representative declined his right to receive a copy of this documentation and submit a response.

testimony, and which emergency responders identified in their report. (Id.).

Findings of Fact

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

1. Under 130 CMR 420.428, a MassHealth member is limited to receiving one set of dentures paid for by MassHealth every seven years. (Testimony; Ex. 6, p. 3).
2. On October 6, 2023, the appellant's dental provider submitted a prior authorization request on the appellant's behalf for a complete set of upper and lower dentures. (Testimony; Ex. 6, p. 4).
3. The appellant last received a complete set of upper and lower dentures paid for by MassHealth on August 17, 2020. (Testimony).
4. On October 6, 2023 the MassHealth agent responsible for dental prior authorization determinations, issued a notice denying the appellant's request for new dentures because the request was submitted less than 84 months (seven years) after MassHealth last paid for the appellant's dentures. (Ex. 1; Ex. 6, p. 3; Testimony).
5. The appellant lost her dentures at her daughter's wedding reception on [REDACTED] 2023. (Testimony; Ex. 11).
6. The venue's air conditioner broke during the reception and because of the heat, the groom, who is diabetic, suffered two grand mal seizures. (Testimony).
7. The appellant is a nurse, and quickly went to attend to him. (Testimony).
8. The appellant removed her dentures in case she needed to perform mouth to mouth resuscitation. (Testimony).
9. The appellant explained that she would be able to form a better seal for this if she did not have her dentures in. (Testimony).
10. As it turns out, mouth to mouth resuscitation was not necessary. (Testimony).
11. The appellant did not have any denture adhesive and could not put the dentures back in her mouth. (Testimony).
12. The EMTs arrived and the appellant went to the wedding party's room so she could stow her dentures some place safe until the reception ended. (Testimony; Ex. 11).
13. She wrapped the dentures in a napkin and put them in her make up bag and put the

makeup bag in her daughter's purple bag. (Testimony).

14. In the aftermath of the reception, no one could find the appellant's daughter's purple bag amongst the items removed from the wedding venue. (Testimony; Ex. 9).
15. The venue was closed from July 1 through July 4. (Testimony).
16. The appellant and others returned to the wedding venue and searched for the purple bag and/or the appellant's dentures both inside and outside the facility but did not find them. (Testimony).
17. The appellant contacted other wedding guests concerning the purple bag, but no one had possession of the bag. (Testimony).

Analysis and Conclusions of Law

The regulation concerning the service descriptions and limitations for removable prosthodontics (i.e. dentures) is located at 130 CMR 420.428 and contains the following paragraphs relevant to this appeal:

(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...

...

(D) Complete Dentures. Payment by the MassHealth agency for complete dentures includes payment for all necessary adjustments, including relines, as described in 130 CMR 420.428(E)....

(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.** (Emphases added).

The record shows that the appellant last received a complete set of dentures on August 17, 2020. The record further shows that the appellant, through her dental provider, submitted a PA request for a complete set of dentures on October 6, 2023. Since MassHealth paid for a complete set of the appellant's dentures less than seven years before, it denied the request submitted on October 6. As the MassHealth representative correctly pointed out, the regulations state that when a recipient receives dentures, they are expected to take care of them. Loss of the dentures, without more, is not a justifiable reason for MassHealth to replace dentures that are less than seven years old.

As the MassHealth representative also correctly pointed out, there are exceptions that do permit MassHealth to pay for replacement of dentures that are less than seven years old. Amongst these reasons is that replacement can be deemed necessary when it is due to extraordinary circumstances, such as a fire. In this case, the record shows that the loss of the existing dentures was due to extraordinary circumstances.

The record shows that the appellant's son-in-law (the groom) experienced a significant medical event during his wedding reception on June 30. The appellant, a medical professional, attended to her son-in-law during the period before EMTs arrived. The appellant removed her dentures, explaining that if she had to perform mouth to mouth resuscitation, she would be able to form a better seal without having her dentures in. As it turns out, performance of mouth to mouth proved to be unnecessary. The appellant, however, was not able to put her dentures securely back in her mouth. She had not intended on removing her dentures and did not have any denture adhesive with her. For that reason, she ended up stowing the dentures in her makeup bag, which she, in turn, placed inside a purple bag owned by her daughter that was among the wedding party's baggage. The appellant reasonably expected that the dentures were thus secure. The problem was that the purple bag was not among the items transported out of the facility by the wedding party that night. The appellant credibly testified that when the venue reopened, she and others tried searching for the bag and/or dentures inside and outside the wedding venue. They could not find the dentures. Based on the appellant's credible testimony, the loss of the dentures was not due to carelessness on her part but, rather, because they were contained within a bag that was likely stolen. Although the appellant could have, and probably should have, filed a police

report concerning the stolen property, it is not felt that should be sufficient to deny the necessary replacement of the dentures.

For the above stated reason, the appeal is APPROVED.

Order for MassHealth

Approve the appellant's request for prior authorization for replacement dentures.

Implementation of this Decision

If this decision is not implemented within 30 days after the date 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc: DentaQuest