

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed in part; Denied in part	Appeal Number:	2313782
Decision Date:	3/27/2024	Hearing Date:	01/26/2024
Hearing Officer:	Scott Bernard	Record Open to:	02/02/2024

Appearance for Appellant:
Pro se via telephone

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:	Dismissed in part; Denied in part	Issue:	Dental/Periodontal and Prosthodontic Services
Decision Date:	3/27/2024	Hearing Date:	01/26/2024
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South		

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 November 27, 2023, MassHealth denied the appellant's prior authorization requests for periodontal and prosthodontic services. (See 130 CMR 420.427; 420.428 and Exhibit (Ex.) 1; Ex. 2, p. 5; Ex/ 5, pp. 3-4). The appellant filed this appeal in a timely manner on December 28, 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 request of the appellant, the hearing record remained open until February 2, 2024 to submit further evidence, after which time it closed.

Action Taken by MassHealth

MassHealth denied the appellant's PA requests for periodontal and prosthodontic services.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.427 and 420.428, in determining that the appellant was not eligible for the requested periodontal and prosthodontic services.

Summary of Evidence

MassHealth was represented telephonically by a consultant with DentaQuest, the MassHealth agent responsible for administering the MassHealth dental plan, and for making the prior-authorization determinations for dental services. The appellant appeared by telephone on her own behalf.

The MassHealth representative stated that he is a dentist licensed to practice in Massachusetts for over 40 years and has been a professor at Tufts University School of Dental Medicine for 25 years. (Testimony). The MassHealth representative testified that the appellant's dental provider submitted a prior authorization request for periodontal and prosthodontic services to MassHealth on November 20, 2023. (Testimony; Ex. 5, p. 5). MassHealth issued a determination on November 27, 2023 denying these requests. (Testimony; Ex. 1; Ex. 2, p. 5; Ex. 5, pp. 3-4).

The first service requested was for procedure number D4341, periodontal scaling and root planing for both the upper right and upper left quadrants. (Ex. 1; Ex. 5, pp. 3-4, 5). The MassHealth representative stated that based on his examination of the appellant's x-rays, he was going to overturn the denial of these periodontal services. (Testimony).

The second request was for procedure number D5120, a complete mandibular or lower denture. (Testimony; Ex. 5, p. 5). MassHealth denied this request because of benefit limitations. (Testimony; Ex. 1; Ex. 2; Ex. 5, pp. 3-4). This service is allowed once per 84 months or seven years. (Testimony). MassHealth records show that MassHealth last paid for the appellant's lower denture on October 25, 2019, which was less than seven years ago. (Testimony). The denial was supported by 130 CMR 420.428(F)(5). (Testimony). The MassHealth representative stated that there are exceptions in the regulations, but none appeared to apply in this case. (Testimony).

The appellant testified to the following. The appellant confirmed that she received her dentures in [REDACTED]. (Testimony). These dentures did not fit. (Testimony). She went back to her dental provider at that time to have the dentures fitted, but they could do nothing to make the dentures sit correctly in her mouth. (Testimony). Neither paste nor powder adhesives were helpful. (Testimony). Within three months of receiving the denture, it fell out of the appellant's mouth and broke. (Testimony). The dental provider told the appellant that they could not do anything to repair the denture. (Testimony). The appellant has therefore been without a lower denture for some time. (Testimony). In response to a question from the MassHealth representative, the appellant stated that the dentist did not begin fitting the denture until after her gums had healed. (Testimony). The MassHealth representative commented that a dentist's failure to wait until a patient's gums healed would be an explanation for why the denture did not fit well, but that it was not what happened in this case. (Testimony).

The appellant stated that the dental provider who submitted her present request is not the same provider as the one who made the denture in [REDACTED]. (Testimony). The appellant discarded the broken denture a long time ago. (Testimony). The appellant said that she could probably go back

to the dental practice to see if she could obtain documentation from [REDACTED] of her efforts to get the denture to fit correctly. (Testimony). She also might be able to get documentation that the denture was not repairable. (Testimony).

The hearing officer offered to allow the hearing record to remain open until February 2, 2024 to allow the appellant to submit documentation concerning her previous denture, the efforts she made to have them fitted correctly, and the fact that they broke and were not repairable.¹ The appellant accepted this offer. (Testimony). No further information was submitted to the Board of Hearings by the end of the day on February 2, 2024 and the hearing record closed on that date.

Findings of Fact

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

1. The appellant's dental provider submitted a prior authorization to MassHealth for procedures D4341, periodontal scaling and root planing for the upper right and left quadrants, and D5120, a complete lower denture, on November 20, 2023. (Testimony; Ex. 5, p. 5).
2. MassHealth issued a determination on November the 27, 2023 denying the requests for these periodontal and prosthodontic services. (Testimony; Ex. 1; Ex. 2, p. 5; Ex. 5, pp. 3-4).
3. After considering the documentation the appellant's dental provider submitted, the MassHealth representative overturned the denial of periodontal services. (Testimony of the MassHealth representative).
4. MassHealth denied the request for a complete lower denture because of benefit limitations. (Testimony; Ex. 1; Ex. 2; Ex. 5, pp. 3-4).
5. MassHealth will pay for dentures once per 84 months or seven years. (Testimony).
6. MassHealth records show that MassHealth last paid for the appellant to receive a lower denture on October 25, 2019, less than seven years ago. (Testimony).

Analysis and Conclusions of Law

MassHealth or the acting entity may make an adjustment in the matters at issue before or during an appeal period. (130 CMR 610.051(B)). If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such

¹ The MassHealth representative asked for a further day to look over any submitted information and submit a response. This turned out to be unnecessary, however.

dismissal that the parties have reached agreement in favor of the appellant. (Id.). In the notice under appeal, MassHealth denied the appellant's prior authorization request for periodontic services. During the hearing, the MassHealth representative informed the hearing officer that based on his judgment, the appellant required the requested periodontic services and that he was going to overturn the denial. For the above reasons, the appeal is DISMISSED with regard to periodontal services.

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).

MassHealth last paid for the appellant's lower denture on October 25, 2019. MassHealth received the present prior authorization request for a lower denture on November 20, 2023. This was less than seven years after the first request. MassHealth properly denied the request for the new lower denture. The appellant proffered credible testimony stating that the first denture did not fit, that she revisited her dentist to get the denture to fit, that the denture broke, and that the dentist informed her that the denture was not repairable. The appellant's previous dentist was paid by MassHealth to make a denture that the appellant could use. The appellant's previous dentist had a responsibility to make a proper fitting denture for the appellant and if the dentist failed to do so, the appellant should have filed a grievance with MassHealth against the dentist at that time. Because MassHealth last paid for a full lower denture for the appellant less than 7 years ago and no other condition in the list at 130 CMR 420.428(F) applies, the regulation does not allow for a replacement denture at this time.

For the above stated reason, with regard to the request for prosthodontic services, the appeal is DENIED.

Order for MassHealth

As agreed to at the hearing, approve the appellant's request for procedure number D4341, periodontal scaling and root planing for both the upper right and upper left quadrants.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

DentaQuest 1, MA