

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2404153
Decision Date:	6/12/2024	Hearing Date:	04/19/2024
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:	Dental Services
Decision Date:	6/12/2024	Hearing Date:	04/19/2024
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 February 14, 2024, MassHealth denied a prior authorization request for the replacement of partial upper denture. (Ex. 1). The appellant filed an appeal in a timely manner on March 14, 2024. (130 CMR 610.015; Ex. 2). Denial of prior authorization is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for the replacement of partial upper denture.

Issue

Whether MassHealth was correct in denying the appellant's prior authorization request.

Summary of Evidence

The MassHealth representative, a consultant with DentaQuest ("consultant"), and appellant, pro se, appeared at hearing and were sworn. The consultant testified that appellant's provider requested prior authorization for dental code D5211, upper partial denture, on February 14, 2024.

The request was denied on February 14, 2024 due to the fact the procedure is only authorized once every 7 years. (130 CMR 420.428(A)). He stated appellant received his upper partial dentures on October 21, 2021. He upheld the denial because the request is within 7 years of when the dentures were first authorized. The consultant testified that he had a note that appellant had lost the partial upper denture. The consultant commented that appellant could call the Complaint Department of MassHealth and register a complaint about the provider who placed the partial denture the first time. (Testimony).

Appellant testified that the dentures didn't fit from the beginning. He stated he did receive the partial denture on October 21, 2021. The whole time he had them he was never able to eat with them. He stated they caused him embarrassment. He stated after the provider shaved the dentures down, he had appellant sign something and the provider never did another thing to the partial denture. When he was asked if he had lost the partial denture, appellant stated since he was never able to use them, he had "no idea" where they were (Testimony).

Findings of Fact

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

1. Appellant's provider requested prior authorization for dental code D5211, upper partial denture, on February 14, 2024. (Testimony).
2. MassHealth denied the request on February 14, 2024 due to the fact the procedure is only authorized once every 7 years. (Testimony; 130 CMR 420.428(A)).
3. Appellant received his upper partial denture on October 21, 2021. (Testimony).
5. The consultant testified that he had a note that appellant had lost the partial upper denture. (Testimony).
6. Appellant stated he had "no idea" where the partial denture is at this time. (Testimony).

Analysis and Conclusions of Law

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

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be

established through a prior authorization process. (130 CMR 450.204; 130 CMR 420.410). In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,¹ covered services for certain dental treatments, including removable prosthodontic devices such as dentures, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. See 130 CMR 420.421(A) through (C).

130 CMR 420.428 contains the relevant description and limitation for prosthodontic devices like the denture at issue in this appeal, including specific sections regarding replacement request for such dentures. That regulation reads in relevant part as follows:

420.428: Service Descriptions and Limitations: Prosthodontic Services (Removable)

(A) General Conditions. **The MassHealth agency pays for dentures services once per seven calendar years per member, subject to the age limitations specified in 130 CMR 420.428(B).** 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.** The MassHealth agency does not pay for complete dentures when the member's medical record indicates material limitations to the member's ability to cooperate during the fabrication of the denture or to accept or function with the denture, or indications that the member does not intend to utilize the denture.

(B) Prosthodontic Services. The MassHealth agency pays for complete dentures for all members. The MassHealth agency pays for immediate dentures, including relines and post insertion procedures and placement of identification, for members younger than ■ years old.

...

(E) Removable Partial Dentures. The MassHealth agency pays for removable partial dentures if there are two or more missing posterior teeth or one or more missing anterior teeth, the remaining dentition does not have active periodontitis, and there is a favorable prognosis for treatment outcome. A tooth is considered missing if it is a natural tooth or a prosthetic tooth missing from a fixed prosthesis. Payment for a partial denture includes payment for all necessary procedures for fabrication including clasps and rest seats.

(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:**

¹ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual ("Dental ORM" or "Dental Office Reference Manual") publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices.

- (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, and 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.*

(G) Complete Denture Relines. The MassHealth agency pays for chairside and laboratory complete denture relines. Payment for dentures includes any relines or rebases necessary within six months of the insertion date of the denture. The MassHealth agency pays for subsequent relines once every three calendar years per member.

(Bolded emphasis added.)

130 CMR 450.204 speaks to the medical necessity issue for all MassHealth providers. 130 CMR 450.204 reads in relevant part as follows:

450.204: Medical Necessity

The MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) 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. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.*

(B) Medically necessary services must be of a quality that meets professionally

recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(**Bolded** emphasis added)

In this matter, 130 CMR 420.428(A) and (F)(5) lay out the framework for dentures, stating that there is a strong presumption that replacement dentures for those dentures that are less than 7 years old cannot be approved by the MassHealth agency unless some extraordinary or unusual circumstances (such as those in 130 CMR 420.428(F)(1) through (4) or (6) through (8)), exist. In this case the provider did not submit any medical records per 130 CMR 450.204(B) substantiating the necessity for appellant to replace these dentures due to the presence of such exceptional circumstances. The provider also did not submit any a narrative of the case. The dentures received by appellant in October 2021 are less than 7 years old. Appellant's desire for replacement dentures, while understandable, cannot serve as an exception, and there was no other relevant evidence presented at hearing that would support appellant's claim and allow for approval under the regulations.

Appellant admits he does not know the location of the partial dentures. The regulations are clear that "the member is responsible for all denture care and maintenance following insertion." 130 CMR 420.428(A). "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." 130 CMR 420.428(F).

Because the appellant received his partial dentures within the last 7 years, he lost the dentures, and none of the exceptions listed in 420.428 (F)(1)-(8) are applicable, I find no reason to overturn the MassHealth decision, which was correctly made in accordance with the regulations for the agency's dental program.

This appeal is thus 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