

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407884
Decision Date:	8/7/2024	Hearing Date:	07/12/2024
Hearing Officer:	Scott Bernard		

Appearance for Appellant:
Pro se via telephone

Appearance for MassHealth:
Dr. Sheldon Sullaway (DentaQuest) *via*
telephone



*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/Prosthodontic s/Service Limitation
Decision Date:	8/7/2024	Hearing Date:	07/12/2024
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Quincy Harbor South	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 April 29, 2024, 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, p. 2; Ex. 5, p. 4). The appellant filed this appeal in a timely manner on May 16, 2024. (See 130 CMR 610.015(B) and Ex. 1, p. 1). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

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

MassHealth was represented by a licensed dentist who is a consultant with DentaQuest, the MassHealth agent responsible for administering the MassHealth dental plan and for making the

prior authorization determinations for dental services, and the appellant appeared on her own behalf. Both parties attended the hearing by telephone.

The MassHealth representative testified to the following. On April 29, 2024, the appellant's dental provider submitted a prior authorization request for procedure number D5120, which is a complete mandibular or lower denture, and for procedure number, D5110, which is a complete maxillary or upper denture. (Testimony; Ex. 5, p. 5). DentaQuest denied the PA request on the same date because of benefit limitations. (Testimony; Ex. 1, p. 2; Ex. 5, p. 4). The MassHealth representative explained that MassHealth will pay for this service only one time every 84 months, or seven years, and cited 130 CMR 420.428. (Testimony). MassHealth records show that the appellant received upper and lower dentures under these codes on September 14, 2018, which is less than 84 months ago. (Testimony).

The appellant disputed receiving the dentures in September 2018. (Testimony). The appellant stated that when she needed a new set of dentures in 2018, she went to see a new dentist because her previous dentist had retired. She saw that dentist on three occasions and after the third appointment the dentist called her and told her that her dentures were ready. (Testimony). The appellant thought that it was unusual that the dentures would be ready after only three visits. (Testimony). When the appellant went to the dentist, the dentures were far too large and did not fit in her mouth. (Testimony). The appellant said they were like a horse's teeth. (Testimony). The appellant stated that she was mortified and crying. (Testimony). The appellant told the dentist that she was not going to take the dentures but was going to contact MassHealth to have them rescind payment so she could get her dentures made elsewhere. (Testimony). The appellant then left that dentist and has not been back. (Testimony).

The appellant stated that in preparation for this hearing she spoke with the dental office she went to in 2018. (Testimony). The appellant was told that according to their records the appellant visited their office on three further occasions. (Testimony). The appellant stated that in addition to falsely stating that she picked up the dentures in September 2018, the appellant was told that she visited the office another time in September as well as on November 5 and November 6, 2018. (Testimony). The appellant stated that after she walked out of the office without her dentures, she never saw that dentist again and did not visit a further three times. (Testimony). The appellant stated that she could not have been to the office in November 2018 because she was out of the state at that time. (Testimony).

The appellant has been using her previous set of dentures since 2018. (Testimony). The appellant has had these dentures for 30 years, but they have now broken to the point where they are not usable. (Testimony). The appellant has not been able to eat well for a while and has lost a great deal of weight. (Testimony). The appellant has [REDACTED] (Testimony). The appellant stated that she reported the dentist to MassHealth in 2018 and MassHealth told her they would take care of it. (Testimony). The appellant stated that she had not heard further regarding this.

The MassHealth representative expressed sympathy concerning the appellant's condition.

(Testimony). He recommended that she contact the MassHealth Dental Customer Service line and request a complaint form. (Testimony). The MassHealth representative also gave the appellant an address where she could request that a complaint form be sent to her. (Testimony).

Findings of Fact

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

1. On April 29, 2024, the appellant's dental provider submitted a prior authorization request for procedure number D5120, which is a complete mandibular or lower denture, and for procedure number, D5110, which is a complete maxillary or upper denture. (Testimony; Ex. 5, p. 5).
2. DentaQuest denied the PA request on the same date because of benefit limitations. (Testimony; Ex. 1, p. 2; Ex. 5, p. 4).
3. Under 130 CMR 420.428, MassHealth will pay for this service only one time every 84 months, or seven years. (Testimony).
4. MassHealth records showed that MassHealth paid for upper and lower dentures under these codes on September 14, 2018, which was less than 84 months ago. (Testimony).
5. The appellant did have the dentures made in 2018, but never took possession of the dentures because they did not fit. (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. 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 21 years old.

(C) Denture Procedures.

- (1) All denture services require appropriate diagnostic quality radiographs to be taken and stored in the member's chart.
- (2) As part of the denture fabrication process, the member must approve the teeth and setup in wax and try on the denture setup at a try-in visit before the dentures are processed.
- (3) The member's identification must be on each denture.
- (4) All dentures must be initially inserted and subsequently examined and can be adjusted up to six months after the date of insertion by the dentist at reasonable intervals consistent with the community standards.
- (5) If a member does not return for the insertion of the completed processed denture, the provider is required to submit to the MassHealth agency written evidence on their office letterhead of at least three attempts to contact the member over a period of one month via certified mail return receipt requested. Upon providing documentation, the provider may be reimbursed a percentage of the denture fee to assist in covering costs. See 130 CMR 450.231: *General Conditions of Payment*.

(D) Complete Dentures. Payment by the MassHealth agency for complete dentures includes payment for all necessary adjustments, including relines...

(E) Removable Partial Dentures.[Not applicable]

(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 MassHealth paid for the appellant's denture services on September 14, 2018. The record further shows that the appellant, through her dental provider, submitted a PA request for a complete set of dentures on April 29, 2024. Since MassHealth paid for a complete set of the appellant's dentures less than seven years before, it denied the request submitted on April 29. MassHealth will only pay for the necessary replacement of dentures and only under certain conditions. The appellant stated that in 2018 she refused to take the dentures MassHealth paid for because they did not fit. Once MassHealth paid for the dentures, however, the appellant became responsible for their care and maintenance including taking all possible steps to prevent their loss. This could have included giving the dentist a reasonable opportunity to fix the dentures if they did not fit. It certainly did not include abandoning the dentures, even if they were so badly made as to be unusable. Possessing the dentures and being able to demonstrate that they were so defective as to be unusable would have greatly strengthened the appellant's request for a replacement. It may have justified their replacement in as little as six months after their manufacture. MassHealth, however, is not required to replace dentures it paid for but which the appellant abandoned.

For the above reasons, the 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.

Scott Bernard
Hearing Officer
Board of Hearings

DentaQuest 1, MA