

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2410104
Decision Date:	9/17/2024	Hearing Date:	08/23/2024
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway

Interpreter:



*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 - Dentures
Decision Date:	9/17/2024	Hearing Date:	08/23/2024
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 May 15, 2024, MassHealth denied a prior authorization request for the replacement of partial upper and lower dentures. (Ex. 1; Ex. 4). The appellant filed an appeal in a timely manner on June 27, 2024. (130 CMR 610.015; Ex. 2). A decision regarding the scope or amount of assistance 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 and lower dentures.

Issue

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

Summary of Evidence

Appellant is a MassHealth member over the age of 21. The MassHealth representative is a practicing dentist and dental professor within Massachusetts who appeared as a consultant for DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. Both appeared by phone and were sworn. MassHealth received a prior authorization request for partial upper and lower dentures, codes D5211 and D5212. (Testimony; Ex. 4). The request was received and reviewed by DentaQuest Dental on behalf of MassHealth. MassHealth denied the request as the appellant received partial upper and lower dentures on July 21, 2023 (Testimony) and MassHealth does not authorize the replacement of dentures that are less than 7-years old unless the member meets one of the exceptions listed in the regulations. (Testimony; 130 CMR 420.428). The MassHealth representative testified that MassHealth members are responsible for denture care and maintenance. (Testimony; 130 CMR 420.428 (F)). The member must take all possible steps to prevent loss of or damage to their dentures.

Appellant stated she had no questions for the MassHealth representative. She testified she was only seeking replacement of her lower partial denture. The record indicates that appellant cannot remember how she broke her lower partial denture. (Ex. 4, p. 4). She did not deny she received her partial dentures in July 2023.

Findings of Fact

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

1. MassHealth received a prior authorization request on May 15, 2024 for partial upper and lower dentures. (Testimony).
2. MassHealth denied the request as the appellant received dentures in July 2023, less than 7 years prior to the hearing date. (Testimony; Ex. 4).
3. Appellant is over the age of 21 and cannot remember how she broke her lower partial denture. (Ex. 4, p. 4; Ex. 5).
4. Appellant did not deny she received her partial dentures less than 7 years ago.

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).

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 42.421 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 those dentures 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 21 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**

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. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> .

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, 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.)

...

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(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 circumstance. (Ex. 4). The broken dentures are also under 7 years old. The record shows appellant cannot remember how the denture was broken. (Ex. 4, p. 4). 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.

For these reasons, 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

MassHealth Representative: DentaQuest 1, MA