

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2414422
Decision Date:	12/11/2024	Hearing Date:	10/25/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



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:	Approved	Issue:	Dental Services; General Dental; Dentures
Decision Date:	12/11/2024	Hearing Date:	10/25/2024
MassHealth's Rep.:	Dr. Sheldon Sullaway	Appellant's Rep.:	Family
Hearing Location:	Telephonic	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 decision dated September 11, 2024, MassHealth denied the appellant's prior authorization request for complete upper and lower dentures. (Exhibit 5; 130 CMR 420.428(D).) The appellant filed this appeal in a timely manner on September 19, 2024. (Exhibit 2; 130 CMR 610.015(B).) Limitation of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for dentures because the agency had paid for dentures for the appellant within the past seven years.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.428(D), in determining that the appellant's dentures cannot be replaced within 84 months of their being provided because no exceptional circumstances gave rise to their loss.

Summary of Evidence

The appellant submitted a statement that her dentures were taken at a local hospital that was owned by a for-profit hospital group. The appellant received care in the emergency room, but when she was discharged, the nurse who had taken her dentures to be locked up had left. The appellant could not find anyone to unlock the cabinet where her dentures had been placed. This occurred while the hospital group was declaring bankruptcy. The appellant's representative testified that the hospital closed shortly thereafter. The hospital stopped answering the phone, and the hospital's doors were padlocked when she went back.

Dr. Sullaway testified that the appellant had received her dentures on October 30, 2018, and that MassHealth only pays for dentures every seven years. Since it has been 6 years since the appellant received her dentures, she is ineligible for replacements unless one of the exceptions to the regulation is met. The exceptions were reviewed, and Dr. Sullaway conceded that the loss of dentures due to extraordinary circumstances was an exception to the general rule that dentures may only be replaced every seven years. However, he argued that there is another regulation requiring patients be responsible for the care of their dentures, and he did not believe the sudden closure of a hospital that was storing the appellant's dentures constituted an extraordinary circumstance.

Findings of Fact

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

- 1) On or around September 10, 2024, a prior authorization request was submitted on the appellant's behalf, seeking coverage for complete upper and lower dentures. (Exhibit 5.)
- 2) MassHealth denied this request on the next day because it had paid for dentures in October 2018, within the past seven years. (Exhibit 2; Exhibit 5; testimony by Dr. Sullaway.)
- 3) The appellant lost her dentures when they were taken at a hospital emergency room where she was receiving care. The appellant was unable to recover her dentures when she left the hospital due to a shift change in the nurses. Shortly thereafter, the hospital closed abruptly due its parent company declaring bankruptcy. (Exhibit 2; Testimony by the appellant's representative.)

Analysis and Conclusions of Law

MassHealth pays for dental services that are medically necessary. (130 CMR 420.421(A).) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations

governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.¹ (130 CMR 450.204.) MassHealth’s dental contractor also publishes additional guidance in the Dental Program Office Reference Manual (“ORM”).²

Regarding dentures, the agency has ruled that they are medically necessary 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.

...

(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;

¹ The Dental Manual is available on MassHealth’s website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last visited November 22, 2024).)

² The Office Reference Manual is available at <https://masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf> (last visited November 22, 2024.)

(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.

(130 CMR 420.028 (emphasis added).)

Breaking this regulation down, subsection (A) clearly limits payment for dentures to once every seven years. However, subsection (F) allows replacements that are "necessary," and the remaining language indicates that replacements will be allowed within seven years in some circumstances.³ Additional guidance exists in section 15.6 of the ORM. Under the "Criteria for Replacement Prosthodontics," it states: "If there is a pre-existing prosthesis, it must be at least seven years old and unserviceable to qualify for replacement"; but it also states, "Replacement of lost, stolen, or broken dentures less than seven years of age **usually will not** meet criteria for pre-authorization of a new denture." (Emphasis added.) Given the available guidance, I am persuaded that MassHealth allows the replacement of lost, stolen, or broken dentures within fewer than seven years if there are "extraordinary circumstances such as a fire in the home."

The question, therefore, is whether the appellant's dentures were lost due to extraordinary circumstances. The example of a house fire implies emergency circumstance in which there is no chance to ensure the safety of the member's dentures. Here, the appellant's dentures were taken from her by hospital staff, and the appellant was unable to recover them when she left the hospital. She attempted to return to recover them later, but the hospital had closed abruptly. I credit the appellant's representative's testimony regarding what happened, and it is difficult to imagine how the appellant could have avoided this situation. The fact that the hospital's abrupt closure affects many Massachusetts residents does not make its closure commonplace. Therefore, this appeal is APPROVED.

³ It is particularly difficult to comprehend the linguistic meaning of paragraph (5). Paragraph (5) requires that one of the other conditions must **not** be met to replace dentures before seven years. It would be clearer if the triple negative structure of this regulation were rephrased.

Order for MassHealth

Approve the appellant's requested treatment.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation 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.

Christopher Jones
Hearing Officer
Board of Hearings

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MassHealth Representative: DentaQuest 1, MA