

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Remanded	Appeal Number:	2415438
Decision Date:	1/8/2025	Hearing Date:	11/08/2024
Hearing Officer:	Emily Sabo	Record Open to:	12/27/2024

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Sheldon Sullaway, DentaQuest



*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:	Remanded	Issue:	Dental Services; Prior Authorization
Decision Date:	1/8/2025	Hearing Date:	11/08/2024
MassHealth's Rep.:	Sheldon Sullaway	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 1	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 August 15, 2024, MassHealth denied the Appellant's request for prior authorization request for procedure D2740—all white glass crown—for teeth 18 and 19. 130 CMR 420.425(C) and Exhibit 1. The Appellant filed this appeal in a timely manner on October 8, 2024. 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied the Appellant's prior authorization request for procedure D2740—all white glass crown—for teeth 18 and 19.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.425(C), in denying the procedure based on benefit limitations. An additional issue, raised at hearing, is whether MassHealth failed to act on the Appellant's July 2024 complaints about the prior crowns received.

Summary of Evidence

The Appellant and hearing officer met for the hearing in the Quincy Board of Hearings office. The MassHealth representative appeared virtually. The MassHealth representative is a Massachusetts-licensed dentist and consultant for DentaQuest, a third-party contractor that administers and manages MassHealth's dental program. Through testimony and documentary submissions, the MassHealth representative presented the following evidence: the Appellant is a MassHealth Standard member between the ages of [REDACTED]. On August 15, 2024, MassHealth received a prior authorization request from the Appellant's dental provider seeking approval for coverage of procedure D2740—all white glass crown—for teeth 18 and 19. Exhibit 5. On August 15, 2024, MassHealth denied prior authorization approval for the procedure because of benefit limitations as the service is allowed once per 60 months. *Id.*

The MassHealth representative testified that under 130 CMR 420.425(C)(2), MassHealth will only replace a member's crowns every 60 months, or 5 years. The MassHealth representative explained that the request was denied because of that service limitation and also cited to page 112 of the Office Reference Manual. The MassHealth representative testified that, based on their records, the Appellant received crowns on April 5, 2024, from [REDACTED] at [REDACTED].

The Appellant verified his identity. The Appellant testified that he had filed a complaint in July 2024 with MassHealth about crowns received and that MassHealth did not respond to him. The Appellant explained that the August 15, 2024 prior authorization request is from his current dental provider, [REDACTED]. As part of his October 8, 2024 appeal, the Appellant included documentation indicating that he had sent letters to MassHealth on July 10, 2024, and July 25, 2024, complaining about the earlier procedure. Exhibit 2. The Appellant's appeal also states that his fair hearing request form

was originally completed on August 29, 2024, with assistance from My Ombudsman located at [REDACTED]. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] They assured me the completed form, including attachments, would be mailed the Tuesday following Labor Day. Today, October 7th, I discovered that no hearing filing has been received by your office.

Exhibit 2 at 7.

The Appellant's July 10, 2024 letter¹ states that he is dissatisfied with his crown replacement at [REDACTED] and that

Between the months of March and June 2024, I visited [REDACTED] for a broken molar. It was determined that there was enough material for a cap or

¹ The Appellant's July letters both indicated they were sent to MassHealth at PO Box 2906, Milwaukee, WI 53201-2906.

crown. However, within a month of placement, I have had to schedule multiple appointments to have the new crown reattached after it fell off. I subsequently sought a second opinion from another dentist, who presented me with an active treatment plan. This plan includes the replacement of the faulty crown or cap, but at my own expense (enclosures attached). I believe that I should not be responsible for covering the cost of a replacement due to what appears to be negligence on the part of the initial placement.

Id. at 4.

The Appellant's July 25, 2024 letter follows up on his July 10, 2024 letter. *Id.* at 2.

At the hearing, the Appellant also testified that he was seeking legal representation. When asked by the hearing officer, the MassHealth representative stated that he was not aware of the Appellant's earlier complaints and that he could contact the complaints department.

The record was held open until November 27, 2024 for the Appellant to submit a narrative from [REDACTED] along with what complaints he had submitted to MassHealth. MassHealth was granted until December 27, 2024, to review the Appellant's submission and respond.

The Appellant responded during the record open period and stated that while he has been in touch with the [REDACTED] including prior to the November 8, 2024 hearing, and has updated them on his appeal, he is still awaiting legal representation. In addition to including his complaints, the Appellant also submitted a narrative from [REDACTED] stating, in part that the "Appellant visited the office on June 21, 2024, with a detached crown on tooth 19 and that Heavy reduction was noticed. Lack of retention was noticed from old crown prep. Distal deep pocket was noticed. Poor prognosis was expected and explained to [patient]." Exhibit 7 at 10. The narrative also states that the crown on tooth #18 is "defective." *Id.* at 11.

Upon follow-up inquiry from the hearing officer, the MassHealth representative responded that

From what I read the MassHealth Members Complaint Department has not been involved. This Dept has the authority to contact the original provider and try to resolve the issue. If [the Appellant] has had trouble sending this form online he can mail it to :

MassHealth Dental Program
Attn: Intervention Services
P.O. Box 2906
Milwaukee, WI 53201- 2906

At this point in time I have to stand behind the Commonwealth of Ma. Regulations

and the requirements in the Office Reference Manual and uphold the denial.

Exhibit 8.

Findings of Fact

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

1. The Appellant is a MassHealth Standard member between the ages of [REDACTED] Testimony; Exhibit 4.
2. On August 15, 2024, MassHealth received a prior authorization request from the Appellant's dental provider, [REDACTED] seeking approval for coverage of procedure D2740 for teeth 18 and 19. Testimony; Exhibit 5.
3. On August 15, 2024, MassHealth denied the Appellant's prior authorization request based on the determination that he had reached the benefit limitation for crowns, which are covered once per 60 months. Testimony; Exhibit 5.
4. The Appellant received crowns on teeth 18 and 19 on April 5, 2024 from [REDACTED] Testimony.
5. On July 10, 2024, the Appellant mailed a complaint to MassHealth at PO Box 2906, Milwaukee, WI 53201-2906, regarding the treatment he received at [REDACTED] Testimony, Exhibits 2 & 7.
6. On July 25, 2024, the Appellant mailed a follow-up complaint to MassHealth at PO Box 2906, Milwaukee, WI 53201-2906. Testimony, Exhibits 2 & 7.
7. On October 8, 2024, the Appellant filed a request for a fair hearing with the Board of Hearings, stating that he has "been denied corrective treatment for dental malpractice performed by an authorized MassHealth provider." Exhibit 2 at 1.

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 *et seq.*, and the MassHealth Dental Manual.² A

² 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>.

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.

130 CMR 450.204(A).

420.425: Service Descriptions and Limitations: Restorative Services

The MassHealth agency pays for restorative services in accordance with the service descriptions and limitations in 130 CMR 420.425(A) through (E). The MassHealth agency considers all of the following to be components of a completed restoration (local anesthesia tooth preparation, acid etching, all adhesives applications, resin bonding agents, amalgam bonding agents, liners, bases, amalgams, resin-based composites, glass ionomers, curing and polishing) and includes them in the payment for this service. The MassHealth agency does not pay for composite or amalgam restorations replaced within one year of the date of completion of the original restoration when replaced by the same provider or dental group. The initial payment includes all restorations replaced due to defects or failure less than one year from the original placement.

....

(C) Crowns, Posts and Cores.

....

(2) Members █ Years of Age and Older. The MassHealth agency pays for the following crown materials on permanent incisors, cuspids, bicuspid, and first and second molars:

- (a) crowns porcelain fused to predominantly base metal;
- (b) crowns made from porcelain or ceramic;
- (c) stainless steel crowns only if crown porcelain fused to predominately base metal is unsuitable and extraction (the alternative treatment) would cause undue medical risk for a member with one or more medical conditions that include, but are not limited to,
 1. hemophilia;
 2. history of radiation therapy;
 3. acquired or congenital immune disorder;
 4. severe physical disabilities such as quadriplegia;
 5. profound intellectual or developmental disabilities; or
 6. profound mental illness; and
- (d) posts and cores and/or pin retention.

(D) Reinforcing Pins. The MassHealth agency pays for reinforcing pins only when used in conjunction with a two-or-more-surface restoration on a permanent tooth. Commercial amalgam bonding systems are included in this category.

(E) Crown or Bridge Repair. The MassHealth agency pays for chairside crown repair for all members and fixed partial denture repair only for members younger than ■ years old. A description of the repair must be documented in the member's dental record. The MassHealth agency pays for unspecified restoration procedures for crown repair by an outside laboratory only if the repair is extensive and cannot be done chairside.

130 CMR 420.425(C)(2), (D), (E).

610.015: Time Limits

....

(B) Time Limitation on the Right of Appeal. The date of request for a fair hearing is the date on which BOH receives such a request in writing. BOH must receive the request for a fair hearing within the following time limits:

- (1) 60 days after an applicant or member receives written notice from the MassHealth agency of the intended action. Such notice must include a statement of the right of appeal and the time limit for appealing. In the absence of evidence or testimony to the contrary, it will be presumed that the notice was received on the fifth day after mailing;
- (2) unless waived by the BOH Director or his or her designee, 120 days from
 - (a) the date of application when the MassHealth agency fails to act on an application;
 - (b) the date of request for service when the MassHealth agency fails to act on such request;
 - (c) the date of MassHealth agency action when the MassHealth agency fails to send written notice of the action; or
 - (d) the date of the alleged coercive or otherwise improper conduct, but up to one year from the date of the conduct if the appellant files an affidavit with the BOH Director stating the following, and can establish the same at a hearing (Failure to substantiate the allegation either before or at the hearing will be grounds for dismissal.):
 1. he or she did not know of the right to appeal, and reasonably believed that the problem was being resolved administratively or he or she was justifiably unaware of the conduct in question; and
 2. the appeal was made in good faith.

130 CMR 610.015(B)(1), (2).

Based on the testimony and evidence in the record, the Appellant received crowns on teeth 18

and 19 on April 5, 2024 from [REDACTED] On July 10, 2024, the Appellant submitted a complaint to MassHealth about the quality of the treatment he received at [REDACTED] Exhibits 2 & 7. The Appellant followed up with a letter on July 25, 2024. *Id.* On August 15, 2024, the Appellant's current provider, [REDACTED] submitted a prior authorization request for procedure D2740, crowns for teeth 18 and 19. Exhibits 1 & 5. On August 15, 2024, MassHealth denied the request, on the grounds that the Appellant received the treatment within the past 60 months. On October 8, 2024, the Appellant filed a request for a fair hearing with the Board of Hearings. I also find that he filed this appeal within 60 days of the August 15, 2024 prior authorization denial and within 120 days of his July 2024 complaints. See 130 CMR 610.015(B)(2).

To date, MassHealth has not addressed the Appellant's complaint regarding the crowns he received from [REDACTED] in April 2024. I also note, that based on 130 CMR 420.425, MassHealth's "*initial payment includes all restorations replaced due to defects or failure less than one year from the original placement,*" and that the Appellant has had the crowns on teeth 18 and 19 for less than one year. 130 CMR 420.425 (emphasis added). Therefore, I am remanding the matter to MassHealth to resolve the Appellant's complaint regarding the crowns received from [REDACTED]

Order for MassHealth

Resolve the Appellant's complaint regarding the crowns received from [REDACTED] in April 2024. Determine whether the April 2024 crowns were defective such that MassHealth's initial payments includes all restorations, including those performed by the Appellant's new provider, [REDACTED]

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.

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.

Emily Sabo
Hearing Officer
Board of Hearings

MassHealth Representative: DentaQuest 1, MA