

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



Appeal Decision:	Denied	Appeal Number:	2415912
Decision Date:	11/22/2024	Hearing Date:	11/15/2024
Hearing Officer:	Marc Tonaszuck		

**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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Dental Services – General Dental Services
<b>Decision Date:</b>	11/22/2024	<b>Hearing Date:</b>	11/15/2024
<b>MassHealth's Rep.:</b>	Dr. Sheldon Sullaway, DentaQuest	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center	<b>Aid Pending:</b>	No

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapter 118E, Chapter 30 and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated 09/25/2024, MassHealth informed the appellant that it denied her request for an occlusal guard—hard appliance, full arch (Exhibit 1). The appellant filed this appeal with the Board of Hearings in a timely manner on 10/17/2024 (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

### Action Taken by MassHealth

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MassHealth denied the appellant's request for an occlusal guard—hard appliance, full arch.

### Issue

MassHealth correct in denying the appellant's request for occlusal guard—hard appliance, full arch?

## Summary of Evidence

Dr. Sheldon Sullaway, a licensed dentist practicing in Massachusetts, testified on behalf of DentaQuest that the appellant is a MassHealth member and that on 09/25/2024, the appellant's dental provider, [REDACTED], submitted a prior authorization request for an occlusal guard—hard appliance, full arch. MassHealth denied the request on 09/25/2024 because occlusal guards are a non-covered service for adults age 21 and older. Dr. Sullaway testified that the appellant is in her [REDACTED]

The appellant appeared at the fair hearing and testified telephonically that she called MassHealth in August and spoke to “a representative” who told her that this service would be “covered 100%.” She testified that she has “a lot of medical conditions” that require her to use an occlusal guard. The appellant stated her neurologist and dentist agree that the occlusal guard can help her instead of medications and surgery. She concluded that she “desperately needs it.”

## Findings of Fact

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

1. The appellant is a MassHealth member and is over the age of 21 (Testimony).
2. On 09/25/2024, the appellant's dental provider submitted a request to MassHealth for an occlusal guard—hard appliance, full arch (Testimony; Exhibit 4).
3. On 09/25/2024, MassHealth denied the request for an occlusal guard—hard appliance, full arch (Testimony; Exhibit 4).
4. On 10/17/2024, appellant appealed MassHealth's denial to the Board of Hearings (Testimony; Exhibit 2).
5. A fair hearing took place on 11/15/2024. The appellant appeared telephonically, as did the MassHealth representative (Exhibit 3)

## Analysis and Conclusions of Law

MassHealth dental provider regulations at 130 CMR 420.456(D) address service limitations, as follows:

(D) Occlusal Guard. ***The MassHealth agency pays for occlusal guards only for***

***members younger than 21 years old and only once per calendar year.*** The MassHealth agency pays for only custom-fitted laboratory-processed occlusal guards designed to minimize the effects of bruxism (grinding) and other occlusal factors. All follow-up care is included in the payment.

***(Emphasis added.)***

The appellant has the burden "to demonstrate the invalidity of the administrative determination." See *Andrews vs. Division of Medical Assistance*, 68 Mass. App. Ct. 228. Moreover, the burden is on the appealing party to demonstrate the invalidity of the administrative determination. See *Fisch v. Board of Registration in Med.*, 437 Mass. 128, 131 (2002); *Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn.*, 11 Mass. App. Ct. 333, 334 (1981); *Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance*, 45 Mass. App. Ct. 386, 390 (1998).

The appellant, a MassHealth member over the age of 21, requested an occlusal guard—hard appliance, full arch. MassHealth denied the request because it is a non-covered service for members age 21 and older. The appellant argued that her medical conditional should serve as an exception to the above regulation; however, she failed to cite to a regulation in support of her argument.

MassHealth's decision is supported by the facts in the hearing record as well as the above regulation. I find no exception to the above regulation. Accordingly, this 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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

MassHealth Representative: DentaQuest 1, MA