

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision: Dismissed
Decision Date: 12/09/2021
Hearing Officer: Sara E. McGrath

Appeal Number: 2133084
Hearing Date: 12/01/2021


Appellant's Representative:



MassHealth's Representative:

Dr. Harold Kaplan

APPEAL DECISION

Appeal Decision:	Dismissed	Issue:	Prior Authorization for Dental Services
Decision Date:	12/09/2021	Hearing Date:	12/01/2021
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
Hearing Location:	Board of Hearings (Remote)	Aid Pending:	No

Authority

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

Jurisdiction

Through a notice dated April 25, 2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1, p. 4). The appellant filed a timely appeal on April 22, 2021 (130 CMR 610.015(B); Exhibit 1, p. 3). The Board of Hearings scheduled a hearing for July 14, 2021 (Exhibit 1, p. 7). On July 26, 2021, the Board of Hearings dismissed the appeal because the appellant did not appear at hearing and did not request a rescheduling before the date of hearing (Exhibit 1, p. 2). The Board of Hearings subsequently vacated the dismissal and, on November 16, 2021, scheduled a new hearing for December 1, 2021 (Exhibit 2). Denial of a request for prior authorization is a valid basis for appeal (130 CMR 610.032).

Summary

On December 1, 2021, at the scheduled time of this hearing, the hearing officer called the parties' representatives to initiate the hearing. Once both parties were on the phone, Dr. Mouhab Rizkallah, the appellant's appeal representative, stated that he would not be participating in either this appeal or in any of the other ten fair hearings scheduled to be heard on this hearing day.¹ He


¹ Dr. Rizkallah is listed as the appeal representative for all 11 appellants with hearings scheduled with this hearing officer on December 1, 2021.

explained that the appellant's case is the subject of pending court litigation, and he is seeking relief in that forum.² The hearing officer stated that she would proceed to turn on the recording device to document Dr. Rizkallah's position on the record; Dr. Rizkallah declined to be recorded and then he terminated the call. Thus, because the appellant failed to appear at the hearing, the case is dismissed (130 CMR 610.035(A)(11)).

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.

Sara E. McGrath
Hearing Officer
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708


² Despite having filed requests for hearing for each of these 11 cases, Dr. Rizkallah explained that rather than participate in the fair hearing process, he wants DentaQuest to agree to "peer-to-peer reviews." The Board of Hearings conducts its fair hearings in accordance with the fair hearing rules set forth at 130 CMR 610.000.