

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Dismissed	<b>Appeal Number:</b>	2133399
<b>Decision Date:</b>	12/09/2021	<b>Hearing Date:</b>	12/01/2021
<b>Hearing Officer:</b>	Sara E. McGrath		

**Appellant's Representative:**




**MassHealth's Representative:**

Dr. Harold Kaplan



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Dismissed	<b>Issue:</b>	Prior Authorization for Dental Services
<b>Decision Date:</b>	12/09/2021	<b>Hearing Date:</b>	12/01/2021
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)	<b>Aid Pending:</b>	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 February 26, 2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1, p. 6). The appellant filed a timely appeal on May 4, 2021 (130 CMR 610.015(B); Exhibit 1, p. 5). The Board of Hearings scheduled a hearing for July 14, 2021 (Exhibit 1, p. 3). 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 time of the first scheduled 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 the first appeal or in any of the other ten fair hearings (including this one) scheduled to be heard on this hearing day.<sup>1</sup> He explained that all 11 cases are the subject of pending court litigation,

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


and he is seeking relief in that forum.<sup>2</sup> 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.

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Sara E. McGrath  
Hearing Officer  
Board of Hearings

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


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<sup>2</sup> 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.