

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: APPROVED

Appeal Number: 2176392

Decision Date: 10/29/2021

Hearing Date: 10/18/2021

Hearing Officer: Christopher Taffe

Appearance for Appellant:



Appearance for MassHealth:

Harold Kaplan, DMD
(DentaQuest consultant, by phone)



*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:	PA – Dental – Orthodontic
Decision Date:	10/29/2021	Hearing Date:	10/18/2021
MassHealth's Rep.:	H. Kaplan, DMD	Appellant's Rep.:	
Hearing Location:	HarborSouth Tower, Quincy	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 June 21, 2021, MassHealth denied Appellant's request for prior authorization of full orthodontic treatment. See Exhibit 1; 130 CMR 420.431. A timely appeal request for a Fair Hearing was filed over the phone (with MAXIMUS) on Appellant's behalf on August 3, 2021. See Exhibit 1; 130 CMR 610.015(B). On September 2, 2021, the Board of Hearings dismissed this appeal without prejudice, stating that the appeal was unable to proceed without verification of proper authority. See Exhibit 2; 130 CMR 610.034 and 130 CMR 610.035. Appellant's legal custodian timely vacated this dismissal by filing proper written authority on September 12, 2021. See Exhibit 3; 130 CMR 610.048.

Challenging a denial of a MassHealth of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's request for approval of the prior authorization request for braces or full and comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's bite or malocclusion did not currently qualify for approval of comprehensive orthodontic treatment.

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his foster mother with whom he currently resides; the foster mother is the current caretaker of Appellant and she is in the process of finalizing formal adoption of the member and she has current custody and authority to act on behalf of Appellant for all medical and dental treatment per a written statement from the Commonwealth's Department of Children and Families. See Exhibit 3. MassHealth was represented at hearing by Dr. Kaplan, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer the agency's dental program for MassHealth members. All parties testified telephonically.

Over a year ago, via a notice dated March 19, 2021, Appellant was approved for full comprehensive orthodontic treatment through Prior Authorization ("PA") number 202007900051800 through a provider named Dr. William Gordon who practices south of Worcester, Mass. near the Rhode Island border. A copy of the approval letter was filed by Appellant's representative in Exhibit 3. Appellant's caretaker testified that, in part because of the COVID-19 state of emergency which began in March 2020 and in part because of Appellant's then-current living arrangements and the foster care/adoption process (which was also delayed by the COVID-19 crisis), the Appellant never had an opportunity to begin orthodontic treatment.

Now that Appellant has relocated to a different area of the state, northwest of Worcester, Mass., Appellant went to a new orthodontist in Burlington, Massachusetts and, to begin treatment, requested treatment once again through the PA process. A request was submitted from the current orthodontist, Dr. Ramirez of Burlington, on June 21, 2021. The current PA is 202116800124000. The letter from his Burlington orthodontist states that Appellant has a skeletal Class III malocclusion with mandibular prognathism, bimaxillary crowding, a very deep overbite, upper and lower anterior teeth are "*retroclined*", and a likely need to for lingual frenectomy after debanding, and that at his age it is "*critical and medical [sic] necessary to start his comprehensive treatment to address this skeletal discrepancy.*" See Exhibit 5.

In denying the current request in June of 2021, MassHealth denied it on the grounds of medical necessity, stating that Appellant did not have the severe malocclusion needed for approval. See Exhibit 3.¹ Dr. Kaplan testified that he had no information on the prior year's request and approval and he could not use it in this case, which was very close to being a severe and

¹ In certain similar cases in the past, the Hearing Officer has seen MassHealth deny a PA request on the grounds of the service being approved, but DentaQuest and the agency did not assert that in their denial notice to the current provider, relying instead on the more substantive

handicapping malocclusion.

Appellant's caretaker testified that Appellant never began orthodontic treatment in 2020 and questioned why something could be medically approved over a year ago and then denied in the current year. She has been close with Appellant and his caretakers in the prior year and was aware that no such treatment had begun. Appellant's current custodial parent stated that Appellant's bite, if anything, worsened and did not improve in the past year.

Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had his current request for full or comprehensive braces (through PA # 202116800124000) denied by MassHealth in June of 2021. That denial was timely appealed and is the subject of this current appeal. (Testimony and Exhibits 1 and 5)
2. The 2021 PA request was denied on the grounds of medical necessity. (Testimony and Exhibit 5)
3. Appellant was previously approved by MassHealth for the same type of request of full comprehensive orthodontic treatment on March 19, 2020 (under PA # 202007900051800), but Appellant never started treatment due to the state of emergency related to COVID-19, and the foster care/adoption process that has been ongoing over the last two years. (Testimony and Exhibit 3)
4. Appellant has a skeletal Class III malocclusion with mandibular prognathism, bimaxillary crowding, a very deep overbite, upper and lower anterior teeth that were described by his provider as "*retroclined*", and a likely need to for lingual frenectomy after debanding. Appellant's current orthodontist wrote that, at his age it is "*critical and medical [sic] necessary to start his comprehensive treatment to address this skeletal discrepancy.*" (Testimony and Exhibit 5)

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,²

² 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions

covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

420.431: Service Descriptions and Limitations: Orthodontic Services

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. ...

(C) Service Limitations and Requirements.

...
*(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime³ younger than 21 years old and **only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual.** ...*

(Bolded emphasis added.)

Appendix D of the current MassHealth Dental Manual contains the existing HLD Authorization Form found in Exhibit 5. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In this case, MassHealth already agreed with Appellant’s current orthodontist, as evidence via the MassHealth March 19, 2020 approval letter from just over a year ago, that Appellant’s malocclusion was severe enough to qualify him to receive the comprehensive orthodontic treatment in question. Now, just over a year later, the MassHealth Dental Contractor,

(including the HLD form), and service codes found in related subchapters and appendices.

See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on October 25, 2021).

³ Neither DentaQuest nor its representative cited to this rule about the “once per lifetime” restriction as a reason or as the basis for its current denial. Regardless, the MassHealth Dental Program has procedures in place to allow for an approval to be transferred from one provider to another and, due to the unique circumstances for this child and the good-faith reasons for delay over the past year, this matter should be administratively resolved in Appellant’s favor as quickly as possible.

DentaQuest, says that Appellant no longer medically qualifies. It is unclear why DentaQuest chose this new position, but it is inconsistent for no apparent or substantively rationale reason.

Based on this inconsistent position from the agency, and the detailed request from Appellant's current orthodontic provider, I conclude that Appellant is entitled to approval of the current PA request. Therefore, this appeal is APPROVED.

Order for MassHealth

Within no later than 30 days of the date of this decision and as soon as possible, DentaQuest must issue an approval to both Appellant's current caretaker parent⁴ and Appellant's current orthodontic provider for full comprehensive orthodontic treatment on PA # 2021168001240002021.

As needed, DentaQuest may also work together with Appellant's current orthodontic provider to supply, prepare, and/or obtain any "continuity of care" paperwork that is appropriate and would assist in generating the approval notice.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you and/or your current orthodontic provider should contact MassHealth Dental Customer Service at 1-800-207-5019. 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 Taffe
Hearing Officer
Board of Hearings

cc: DentaQuest

⁴ As an actual copy of the June 2021 denial notice sent to Appellant's family was not provided at hearing, DentaQuest should take note and make sure that any correspondence sent to Appellant's current caretaker should go to the address found for her on this decision's cover page.