

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2176691
<b>Decision Date:</b>	10/29/2021	<b>Hearing Date:</b>	10/06/2021
<b>Hearing Officer:</b>	Christopher Taffe		

**Appearance for Appellant:**




**Appearance for MassHealth:**

Harold Kaplan, DMD, on behalf of  
DentaQuest (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

<b>Appeal Decision:</b>	DENIED	<b>Issue:</b>	PA – Orthodontics – Interceptive Request
<b>Decision Date:</b>	10/29/2021	<b>Hearing Date:</b>	10/06/2021
<b>MassHealth's Rep.:</b>	H. Kaplan, DMD	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	HarborSouth Tower, Quincy	<b>Aid Pending:</b>	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 12, 2021, MassHealth denied Appellant's request for prior authorization of interceptive orthodontic treatment. See Exhibit 3; 130 CMR 420.431. Appellant filed a timely request for a Fair Hearing with Maximus over the phone on August 26, 2021. See Exhibit 1; 130 CMR 610.015(B). 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 interceptive orthodontic treatment.

## Issue

Is there a reason to approve the request for interceptive orthodontic treatment?

## Summary of Evidence

Appellant is currently an [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented at hearing by Dr. Kaplan, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties testified telephonically.

The record reveals that on August 10, 2021, Appellant's orthodontic provider at Perfect Dental LLC in Taunton submitted a request for interceptive orthodontic treatment. See Exhibit 3, pages 2 and 6. In his submission, the dental provider also included a HLD form which is the Authorization Form for comprehensive orthodontic treatment. See Exhibit 3, pages 7 to 10. The orthodontist also submitted a one paragraph narrative and a single x-ray taken from the front view (like a PA or a Posterior-Anterior x-ray), see Exhibit 3, pages 11 and 12, but did not include photographs.

The MassHealth representative indicated that, for interceptive orthodontic treatment, pictures or better angles were generally needed in order for DentaQuest to complete its review and consider giving approval for conditions that could allow for approval of interceptive treatment, such as a crossbite. See Exhibit 3, page 13.<sup>1</sup>

In the narrative, Appellant's dentist wrote that "[Appellant]...presents with severe overjet of over 9mm, and a 100% deep bite. He is Cl. II Div 2 and has moderate crowding on the upper arch. We recommend interceptive orthodontic treatment completed at this time, using braces and a bite plate." See Exhibit 3, page 11. In the section of the HLD form listing various conditions that may be potentially considered severe for comprehensive orthodontic treatment, the Appellant's provider's submission had the box checked for a severe overjet of 9mm but did not have the separate box checked for a deep impinging overbite. See Exhibit 3, page 7 (underlined emphasis added).

Appellant's mother did not understand why the submitting dentist did not ask for full, or comprehensive orthodontic treatment. She was told her child needed full orthodontic treatment and she didn't know why photographs were not submitted, but she believes her son needs treatment and has been told it's in his best interests.

## Findings of Fact

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

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<sup>1</sup> Exhibit 3, page 13 suggests that interceptive orthodontic treatment may also be considered, if pictures are not submitted, but only if the claim involves (1) an impacted anterior tooth or (2) a tooth with an issue involving the possible resorption of a neighboring tooth's root and appropriate radiographic evidence of such a condition exists. See Exhibit 3, page 13. However, there is no claim of an impacted anterior tooth on the HLD form, see Exhibit 3, page 7, nor was there any indication in Exhibit 3 of any tooth resorption issue.

1. Appellant's orthodontist submitted a request for approval of interceptive treatment. (Testimony and Exhibit 3)
2. The submission from Appellant's provider contained a HLD form and a single x-ray taken from the front position. (Testimony and Exhibit 3)
3. The submission from Appellant's provider did not contain any photographs. (Testimony and Exhibit 3)
4. In the narrative, Appellant's dentist wrote that "[Appellant]...presents with severe overjet of over 9mm, and a 100% deep bite. He is Cl. II Div 2 and has moderate crowding on the upper arch. We recommend interceptive orthodontic treatment completed at this time, using braces and a bite plate." (Exhibit 3, page 11)
5. In the section of the HLD form listing various conditions that may be potentially considered severe for comprehensive orthodontic treatment, the Appellant's provider's submission had the box checked for a severe overjet of 9mm but did not have the separate box checked for a deep impinging overbite. (Exhibit 3, page 7)

## 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.

130 CMR 420.410(C) lists the submission requirements

### 420.410: Prior Authorization

#### (A) Introduction.

*(1) The MassHealth agency pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. In some instances, prior authorization is required for members 21 years of age or older when it is not required for members younger than 21 years old.*

...

#### (C) Submission Requirements.

*(1) The provider is responsible for including with the request for prior authorization appropriate and sufficient documentation to justify the medical necessity for the service...*

**(Bolded emphasis added.)**

In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,<sup>2</sup>

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<sup>2</sup> 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 420.421 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 interceptive 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.*

...

*(2) Interceptive Orthodontics.*

*(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.*

*(b) The MassHealth agency **limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion, including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.***

*(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.*

**(Bolded emphasis added.)**

In this case, MassHealth is asserting its right to deny the case based on the insufficiency of the submission. The decision seems logical in that, other than arguably a deep impinging overbite, the Appellant's provider did not list any of the conditions listed in 130 CMR 420.431(C)(2)(b). For example, the provider mentions a Class II malocclusion when the regulation mentions the different Class III. Overjet, while potential issue for comprehensive treatment, does not appear to be an issue listed in either the regulation or on the sheet used by DentaQuest for interceptive treatment. As to the deep impinging overbite mentioned in the regulation, it is noted that the

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(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).

submission does not use the word “impinging” nor does it talk about conditions associated with that such as tears or bleeding in the palate area.

During the hearing process, the consultant from DentaQuest and the Hearing Officer can look at other evidence in the record. However, in this case, the submission is simply lacking such other evidence which can help or suffice in answering the questions of Appellant’s dental conditions. Specifically, there are no pictures (or even a lateral-type x-ray) that can show the length or proper angle of any overjet, overbite, or crossbite. The one photo in the submission is a two-dimensional, “head on”-type x-ray taken from the front. The x-ray doesn’t even show the upper and lower teeth touching. While this type of x-ray has some understandable uses for a dentist, this x-ray alone is not the type that would be helpful for either supporting the initial PA request or issue at appeal. The MassHealth orthodontist stated that he could not consider the case and that photographs would have been helpful to look for or judge the presence of other conditions, and that is understandable and reasonable. I find no reason to overturn this decision, and the appeal is thus DENIED.

As discussed at hearing, the Appellant’s family can talk to their orthodontist in the future about either (1) resubmitting for interceptive treatment with additional photos or materials, and/or (2) comprehensive orthodontic treatment if and when the time is right for consideration of that request.

## **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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Christopher Taffe  
Hearing Officer  
Board of Hearings

cc: DentaQuest