

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** DISMISSED (in favor of Appellant)

**Appeal Number:** 2177571

**Decision Date:** 11/24/2021

**Hearing Date:** 11/08/2021

**Hearing Officer:** Christopher Taffe

**Record Open to:** 11/23/2021

**Appearance for Appellant:**



**Appearance for MassHealth:**

Carl Perlmutter, DMD – Orthodontist and  
Consultant for 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>	DISMISSED (in favor of Appellant)	<b>Issue:</b>	PA – Dental – Orthodontics – Interceptive
<b>Decision Date:</b>	11/24/2021	<b>Hearing Date:</b>	11/08/2021
<b>MassHealth's Rep.:</b>	C. Perlmutter, DMD	<b>Appellant's Rep.:</b>	[REDACTED]
<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 and Summary of Appeal Resolution

Through a notice dated June 25, 2021, MassHealth denied Appellant's request for prior authorization of interceptive orthodontic treatment. See Exhibit 1; 130 CMR 420.431. Appellant filed a timely appeal with the Board of Hearings on July 7, 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.

The appeal consisted of a request for interceptive orthodontic treatment under Service Codes D8060 and D8999. The request was submitted by Dr. Brian Gaudreault under Prior Authorization (PA) # 202117400367000. At hearing, the MassHealth Representative indicated that while the written narrative was compelling, the appeal packet (Exhibit 3) with the submission from Appellant's orthodontist did not include any x-rays or photographs which could allow him to review and corroborate the service request and overturn the decision.

At the conclusion of the hearing, the parties agreed to extend the Record Open period to allow time for the Appellant to obtain and submit additional evidence (namely the x-rays and photographs) post-hearing to the Hearing Officer, for the Hearing Officer to receive and forward it, and for the MassHealth Representative to response.<sup>1</sup> Appellant timely submitted the requested x-rays and

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<sup>1</sup> This allowance of the Record Open period to permit Appellant to submit additional information that was not present in the record on the hearing date extended the due date for this decision until Monday

photographic materials to the Hearing Officer during the Record Open period and the submission was acknowledged, copied, and forwarded to MassHealth by the Hearing Officer. See Exhibit 4 through 6.

In response, the MassHealth Representative Dr. Perlmutter **approved** the requested interceptive treatment. See Exhibit 7. Specifically, in Exhibit 7, Dr. Perlmutter wrote in part the following:

*“Thank you for forwarding the clinical records...I can make a decision by carefully studying the intraoral photographs and the cephalometric radiograph...The cephalometric radiograph displays an excessive overjet greater than the required 9 mm, therefore, appears to be an automatic qualifier. In addition, the overbite appears to certainly be impinging on the palatal tissue behind the maxillary anterior teeth. These two items will qualify [Appellant] to be approved for INTERCEPTIVE TREATMENT AT THIS TIME.... I, therefore, will approve her for the requested INTERCEPTIVE TREATMENT AND DO INSTRUCT (sic) THAT THE ORIGINAL DECISION HAS BEEN REVERSED.”*

(Exhibit 7, CAPS in original)

Based on the above, **the appeal issue has been resolved completely in Appellant’s favor** as MassHealth has approved the requested treatment. As there is no remaining issue of dispute between the parties, this appeal is DISMISSED per 130 CMR 610.051 and 610.083(C), with an Order for the agency to confirm the approval for the Appellant.

## **Order for MassHealth/DentaQuest**

DentaQuest and/or the agency must, no later than 30 days from the date of this decision, send written notice of approval of the request for interceptive orthodontic treatment on PA # 202117400367000 to both (1) Appellant’s family and (2) the provider<sup>2</sup> who submitted this PA request.

## **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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November 30, 2021. See 130 CMR 610.015.

<sup>2</sup> Appellant is encouraged to share news of this appeal outcome with her orthodontist so that both the orthodontist and Appellant’s family can prepare for the next step, and so the dental provider can be on the lookout for the official approval notice.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact MassHealth Dental Customer Service at 1-800-207-5019. If you experience further 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.

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Christopher Taffe  
Hearing Officer  
Board of Hearings

cc: DentaQuest