

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2178058
Decision Date:	01/26/2022	Hearing Date:	12/06/2021
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:




Appearance for MassHealth:

Dr. Harold Kaplan



*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:	Prior Authorization
Decision Date:	01/26/2022	Hearing Date:	12/06/2021
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
Hearing Location:	All Parties Appeared by Telephone		

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 September 30, 2021, MassHealth denied appellant's prior authorization request for comprehensive orthodontic treatment. (Exhibit 1). The Board of Hearings received a request for hearing on October 18, 2021 filed by an individual stating that she was the appellant's guardian. (Exhibit 2). On October 22, 2021, the Board of Hearings dismissed the appeal for failure to demonstrate that the individual filing the appeal was a MassHealth applicant/member, nursing home resident or appeal representative. (130 CMR 610.035; Exhibit 3). The Board of Hearings provided the individual filing the appeal the opportunity to have the dismissal vacated if she could provide a copy of the legal document conveying guardianship. (Exhibit 3). On November 1, 2021, the Board of Hearings received a copy of a letter of appointment naming the individual filing the appeal as the appellant's guardian. (Exhibit 4). Upon receipt of this document, the Board of Hearings vacated the dismissal and scheduled a hearing for December 6, 2021. (Exhibit 5).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment.

Issue

Whether MassHealth was correct in denying the appellant's prior authorization request for comprehensive orthodontic treatment.

Summary of Evidence

The MassHealth representative, a licensed orthodontist, testified that the appellant submitted a prior authorization request for orthodontic treatment. MassHealth reviewed the documents submitted by the appellant's current provider [herein referred to as Provider #2] and concluded that the appellant's condition does rise to the level to authorize treatment as he has a severe and handicapping malocclusion. However, MassHealth denied the prior authorization request as records show the appellant received approval and began comprehensive orthodontic treatment with another provider [herein referred to as Provider #1].

The appellant's guardian provided a letter from Provider #1 stating that the appellant was a former patient who began treatment with a rapid palate expander (RPE). (Exhibit 7). The appellant removed the appliance multiple times and was non-compliant with appointments. (Exhibit 7). Provider #1 dismissed the appellant from their practice. (Exhibit 7). Provider #1 said MassHealth approval was released. (Exhibit 7). The MassHealth representative noted that records do not indicate such a release. Provider #1 did not provide a prior authorization number on the letter submitted into the hearing record. (Exhibit #7). Provider #1 did not provide any documentation with the brief statement about the treatment. (Exhibit 7). The MassHealth representative responded that Provider #1 must coordinate with Provider #2 to transfer the original authorization and payment rather than having Provider #2 submit a new prior authorization request. The MassHealth representative testified that the agency cannot authorize coverage with Provider #2 due to payments and authorizations already made with Provider #1.

The appellant's guardian acknowledged the appellant's receipt of a RPE from Provider #1 and the removal of the RPE by the appellant. The appellant's guardian testified that the appellant could not tolerate the RPE and felt that he was more mature now so could tolerate comprehensive treatment. The

appellant's guardian testified that the appellant has received other prior authorization denials for the same reason. However, she did not appeal the prior denials. The appellant's guardian testified that Provider #2 knew about Provider #1's prior authorization approval and the initial treatment. The appellant's guardian testified that Provider #1 was willing to return funds to MassHealth for the appellant to obtain authorization care from for Provider #2.

Findings of Fact

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

1. Provider #2 submitted a prior authorization request for orthodontic treatment.
2. MassHealth denied the prior authorization request.
3. The appellant has a severe and handicapping malocclusion.
4. The appellant received approval and began treatment with Provider #1.
5. Provider # 1 began treatment with a rapid palate expander (RPE).
6. The appellant removed the appliance multiple times.
7. The appellant was non-compliant with appointments.
8. Provider #1 dismissed the appellant from their practice.

Analysis and Conclusions of Law

MassHealth pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 and only when the member has a handicapping malocclusion. (130 CMR 420.031(C)(3)). MassHealth determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual. (130 CMR 420.031(C)(3)). Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. (130 CMR 420.031(C)(3)).

MassHealth did not deny the fact that the appellant has a handicapping malocclusion. The issue on appeal is whether the appellant received comprehensive orthodontic treatment once in his lifetime.

The regulations at 130 CMR 420.031(B)(3) define comprehensive orthodontic treatment to include a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. (130 CMR 420.031(B)(3)). Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. (130 CMR 420.031(B)(3)). Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development. (130 CMR 420.031(B)(3)).

Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. (130 CMR 420.031(C)(3)). Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. (130 CMR 420.031(C)(3)). The payment for comprehensive orthodontic treatment covers a maximum period of three (3) calendar years. (130 CMR 420.031(C)(3)). MassHealth pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. (130 CMR 420.031(C)(3)).

MassHealth pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. (130 CMR 420.031(C)(6)). Payment for transfer cases is limited to the number of treatment visits approved. (130 CMR 420.031(C)(6)). Providers must submit requests using the form specified by MassHealth. (130 CMR 420.031(C)(6)). It appears that MassHealth may be treating this case as a transfer from one orthodontic provider to another. However, this case appears to have a gap in the treatment between Provider #1 and Provider #2 rather than a simple transfer of a member to continue treatment as the appellant removed the appliance on his own and then went to a new provider.

MassHealth requires providers to make all efforts to complete an active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. (130 CMR 420.031(C)(7)). If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number. (130 CMR 420.031(C)(7)). Provider #1 submitted a letter with a brief narrative but it did not

include supporting documentation or the case prior authorization number. (130 CMR 420.031(C)(7)). The records do not clearly indicate that the appellant received comprehensive treatment from Provider #1 or that Provider #1 received payment for the removal of brackets and bands. Records show Provider #1 began a phase of treatment with the insertion of an RPE. The termination of this active phase does not appear to equate to the receipt of comprehensive treatment.

The regulations require providers to take post treatment photographic prints and maintain them in the member's dental record upon completion. (130 CMR 420.031(C)(3)). Neither party presented records of the completion of treatment. (130 CMR 420.031(C)(3)). Since the appellant did not receive comprehensive treatment from Provider #1, this appeal is approved to authorize comprehensive treatment from Provider #2.

This decision only applies to the prior authorization request on appeal at this time. Should the appellant continue to be non-cooperative in the receipt of treatment, the agency may not be obligated to continue to authorize treatment to subsequent providers.

Order for MassHealth

Approve the appellant's prior authorization request for comprehensive orthodontic treatment.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. 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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

CC:
MassHealth Representative: DentaQuest 1, MA