

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2179273

**Decision Date:** 01/26/2022

**Hearing Date:** 01/10/2022

**Hearing Officer:** Marc Tonaszuck

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, DentaQuest



*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>	Orthodontics
<b>Decision Date:</b>	01/26/2022	<b>Hearing Date:</b>	01/10/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Quincy Harbor South		

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction

Through a notice dated 11/19/2021 MassHealth informed the appellant that it denied his request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). A timely appeal was filed on the appellant's behalf on 12/08/2021<sup>1</sup> (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated 04/07/2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

## **Action Taken by MassHealth**

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

## **Issue**

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment pursuant to 130 CMR 420.431(C)?

## **Summary of Evidence**

The MassHealth orthodontic consultant, a licensed orthodontist from DentaQuest, testified that the appellant's provider requested prior authorization for comprehensive orthodontic treatment. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. He testified that the orthodontic provider submitted a prior authorization request on behalf of the appellant, who is under 21 years of age. The request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. In this case, the appellant still has at least 12 "baby teeth." The regulations require that comprehensive orthodontic treatment cannot be approved until the members' first premolars and first permanent molars have erupted. He suggested to the mother that perhaps she was looking for interceptive orthodontic treatment; in which case, the mother would need to contact the orthodontist to have him submit the correct request to MassHealth (Exhibit 4).

The appellant's mother appeared at the fair hearing telephonically and testified that she is concerned that there is not enough space in the appellant's mouth for his adult teeth to come in. Also she is concerned about a missing front tooth.

## **Findings of Fact**

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

1. The appellant is under 21 years of age (Testimony).
2. The appellant's first premolars and first permanent molars have not yet erupted (Testimony).
3. On 11/19/2021, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
4. On 11/19/2021, MassHealth denied the appellant's prior authorization request (Exhibit

- 1).
5. MassHealth provides coverage for comprehensive orthodontic treatment only when the members' first premolars and permanent molars have erupted (Testimony; Exhibit 4).
6. The appellant does not have craniofacial anomalies such as cleft lip or cleft palate (Testimony).
7. There was no other documentation of medical necessity for the comprehensive orthodontic treatment provided to MassHealth.

## **Analysis and Conclusions of Law**

Regulation 130 CMR 420.431(C) states, in relevant part, as follows:

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record.

The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure.

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. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency 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.

Comprehensive orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present.

Subject to prior authorization, the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant must have the majority of his adult dentition, as described above. Specifically the first premolars and first permanent molars must have erupted. MassHealth denied this request because the appellant's first premolars and first permanent molars have not yet erupted. In fact, he still has 12 "baby teeth." No other condition exists, like craniofacial anomalies such as cleft lip or cleft palate. Accordingly, MassHealth's decision to deny comprehensive orthodontic treatment is supported by the facts in the hearing record and the above regulation. This appeal is therefore denied.

## **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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:

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