

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2179315

**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>	Orthodonture
<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

The appellant received a notice dated 12/02/2021 stating: MassHealth has denied your request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal 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).

## Action Taken by MassHealth

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

## Issue

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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.

Is the appellant ineligible for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(E)?

## **Summary of Evidence**

The MassHealth orthodontic consultant from DentaQuest, Dr. Carl Perlmutter, testified that the appellant's provider requested prior authorization for comprehensive orthodontic treatment. Dr. Perlmutter has many years of clinical experience as a practicing orthodontist. In addition, he currently teaches orthodonture at Tufts Dental School. The DentaQuest representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment once per lifetime. In this case, the appellant began treatment on 05/18/2016. MassHealth approved the appellant's request for comprehensive orthodontic treatment at that time (Exhibit 4). The instant request was received by MassHealth on 11/30/2021; however it was denied because MassHealth approved payment for comprehensive orthodontic treatment in 2016 and the regulations only allow MassHealth to pay for comprehensive orthodontic treatment once per lifetime.

The appellant, an adult, appeared at the fair hearing with her grandmother and they testified telephonically. They testified that "due to unforeseen circumstances, the orthodontic treatment was not completed" when the appellant was first banded for braces. At that time, the appellant was living with her father in Massachusetts; however, he broke a custody ruling and DCF moved the appellant to Virginia to live with her mother. She did not continue her orthodontic treatment at that time. Now she has returned to Massachusetts and she would like to finish her orthodontic treatment.

## **Findings of Fact**

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

1. The appellant is an adult who appeared at the fair hearing with her grandmother (Testimony).
2. On 11/30/2021, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. On 12/02/2021, MassHealth denied the appellant's prior authorization request (Exhibit 1).
4. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
5. MassHealth provides comprehensive orthodontic treatment once per lifetime.

6. MassHealth approved the appellant for comprehensive orthodontic services in or about May 2016.
7. The appellant had braces placed in 2016.

## Analysis and Conclusions of Law

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

The MassHealth agency pays for comprehensive orthodontic treatment ***only once per member under age 21 per lifetime*** and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

***(Emphasis added.)***

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. The minimum HLD index score which indicates a severe and handicapping malocclusion is 22.

In this case, the appellant's treating orthodontist asserted that the appellant's malocclusion would qualify her for payment for his comprehensive orthodontic treatment; however, records show she was previously approved by MassHealth for comprehensive orthodontic treatment in or about May 2016. She had braces placed at that time and she began orthodontic treatment.

The appellant and her grandmother argued that she continues to need orthodontic treatment and that the orthodontic treatment was interrupted due to "unforeseen circumstances." MassHealth's denial is based on the above regulation that makes no exception for the "once per lifetime" service limitation. MassHealth correctly interpreted the regulation. There is no exception to the above regulation. Accordingly, MassHealth denial is upheld and this appeal is 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:  
MassHealth Representative: DentaQuest 2, MA