

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2202115

**Decision Date:** 6/14/2022

**Hearing Date:** 05/25/2022

**Hearing Officer:** Rebecca Brochstein

**Appearances for Appellant:**



Appellant's Mother

**Appearances for MassHealth:**

Dr. Harold Kaplan



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Division of Medical Assistance  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Approval
<b>Decision Date:</b>	6/14/2022	<b>Hearing Date:</b>	05/25/2022
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Appellant's Mother
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

On February 15, 2022, MassHealth denied the appellant's request for prior authorization of replacement retainers (Exhibit 1). The appellant filed this appeal in a timely manner on March 21, 2022 (130 CMR 610.015(B); Exhibit 2). A hearing was originally set for April 25, 2022, but was rescheduled at the appellant's request (Exhibit 3). Denial of a request for prior authorization is a valid basis for appeal (130 CMR 610.032).

### Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization of replacement retainers.

### Issue

The appeal issue is whether MassHealth was correct in denying the appellant's prior authorization request.

## **Summary of Evidence**

An orthodontic consultant from DentaQuest, the MassHealth dental contractor, appeared at the hearing telephonically. His testimony and MassHealth's documentary evidence reveal the following background: The appellant was previously approved for comprehensive orthodontic treatment. She had her braces removed (was de-banded) on May 22, 2019, and was given retainers thereafter. On February 15, 2022, the appellant's orthodontic provider submitted a prior authorization request for replacement of her maxillary and mandibular retainers (procedure codes D8703 and D8704). MassHealth denied the request on February 15, 2022, because more than two years had elapsed from the date of de-banding. See Exhibit 1.

The appellant was represented at hearing by her mother, who appeared telephonically. She testified that the appellant was given retainers after her braces were removed, but that she needs a new set because one has worn down and one was lost. She stated that her daughter's provider recommended that she continue to wear retainers to keep her teeth aligned. The mother argued that this is a proactive approach that will prevent having to fix the problem again down the road. She requested that MassHealth approve a new set for the appellant to wear "for a few more years."

The appellant submitted a letter from her orthodontic provider in support of the prior authorization request. It states that the appellant completed her active orthodontic treatment on May 22, 2019, and adds the following: "Like all patients, and as is suggested by the American Association of Orthodontics, retainers should be worn regularly to prevent teeth from relapse." See Exhibit 4.

The MassHealth representative stated that he does not disagree with the appellant's position, but maintained that the regulations simply do not allow for approval of replacement retainers more than two years after de-banding.

## **Findings of Fact**

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

1. The appellant was previously approved for comprehensive orthodontic treatment. She completed treatment and had her braces removed on May 22, 2019, and was given retainers thereafter.
2. On February 15, 2022, the appellant's orthodontic provider submitted a prior authorization request for replacement maxillary and mandibular retainers. The provider made this request because the one retainer was lost and the other was worn down.
3. On February 15, 2022, MassHealth denied the request on the basis that more than two years had elapsed from the date of de-banding.

4. The appellant filed a timely appeal on March 21, 2022.

### **Analysis and Conclusions of Law**

The regulations governing MassHealth coverage of orthodontic services are found at 130 CMR 420.431. Under 130 CMR 420.431(C)(5): *Orthodontic Case Completion*:

MassHealth pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

The specific rules for replacement of lost or broken retainers are found in the MassHealth Dental Program Office Reference Manual. The requested procedure codes, D8703 and D8704, require prior authorization and set forth the following “benefit limitations”:

One of [D8703 and D8704] per 2 calendar year(s) per patient. *The MassHealth agency pays for replacement retainers only during the 2 year retention period following orthodontic treatment.* Only payable to a dental provider with a specialty of Orthodontics. Statement regarding the date of the onset of retention. (Emphasis added)

There is no dispute that the appellant’s orthodontic treatment ended on May 22, 2019, which is more than two years before the prior authorization request. Though it is understandable that the appellant wishes to continue wearing retainers to keep her teeth properly aligned, the regulations and guidelines do not allow for payment of replacement retainers beyond the two-year period following de-banding. As such, MassHealth was correct in denying the prior authorization request.

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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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708