

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DISMISSED (in
Appellant's favor)

Appeal Number: 2205582

Decision Date: 9/7/2022

Hearing Date: 08/24/2022

Hearing Officer: Christopher Taffe

Record Closed: 09/06/2022

Appearance for Appellant:

[REDACTED] (Mother/Appeal
Representative) (by phone)

Appearance for MassHealth:

Harold Kaplan, DMD, on behalf of
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

Appeal Decision:	DISMISSED (in Appellant's favor)	Issue:	PA – Dental – Orthodontics
Decision Date:	9/7/2022	Hearing Date:	08/24/2022
MassHealth's Rep.:	H. Kaplan, DMD	Appellant's Rep.:	Mother, pro se
Hearing Location:	HarborSouth Tower, Quincy	Aid Pending:	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 Resolution

Through a notice dated June 30, 2022, MassHealth denied Appellant's request for prior authorization ("PA") of comprehensive orthodontic treatment. See Exhibit 1; 130 CMR 420.431. Appellant filed a timely appeal with the Board of Hearings on July 27, 2022. 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 610.032.¹

The appeal consisted of a PA request for comprehensive orthodontic treatment under Service Codes D8080 and D8670., both of which were denied for clinical reasons. Dr. Brad Beaudoin of Amesbury Orthodontics submitted the PA request # 202218100388800 on behalf of Appellant.

The basis in support of Appellant's request for orthodontics is that Appellant has an automatic qualifying condition; specifically, her orthodontist alleged that she had a lateral open bite of 2 mm or more within 4 or more teeth in an arch of the mouth. The copy of the PA submission given by DentaQuest for the Hearing Officer to review at hearing had no photos or x-rays. See Exhibit 4.

¹ On the August 24, 2022 hearing date, this appeal was consolidated and heard with the parties' consent in conjunction with a similar pending orthodontic appeal for Appellant's sibling (Board of Hearings' Appeal # 2205581) per 130 CMR 610.073. That appeal #2205581 for the brother was resolved at hearing and withdrawn, after the DentaQuest consultant overturned and approved orthodontic treatment for the brother based on the evidence available on the hearing date. That appeal #2205581 for the brother was bifurcated and closed separately by the Board of Hearings on the August 24, 2022 hearing date per 130 CMR 610.035 and 130 CMR 610.051(B).

Dr. Kaplan testified that he had noticed this pre-hearing and he reached out to DentaQuest to try to alert them to this and resolve it but he was told that the provider submitted no photos or x-rays.² Dr. Kaplan testified that he needed those photographic evidence to evaluate the claim of the lateral open bite.

At the conclusion of the hearing, the parties agreed to extend the Record Open period per 130 CMR 610.081 until September 13, 2022 to allow time for (1) the Appellant's side to obtain and submit a copy of the needed photographs, and (2) for the Hearing Officer to receive, review, and forward any submission, and (3) for the MassHealth Representative to respond.

Appellant made a timely Record Open submission to the Hearing Officer on August 31, 2022. See Exhibit 5. The Hearing Officer reviewed and forwarded this to the MassHealth Representative who responded as follows, and overturned the denial. Specifically, Dr. Kaplan wrote the following:

"Thank you [Hearing Officer] for forwarding intraoral photographs of [Appellant]. Upon viewing the records, an auto-qualifier condition is present (lateral open bite: 2mm or more, of 4 or more teeth per arch). I am therefore overturning the denial and recommending that Kaia receive comprehensive orthodontic treatment by Mass Health. Sincerely, [Dr. Kaplan]"

See Exhibit 6.³

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 in Appellant's favor** 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 and as soon as possible, send written notice of approval of the request for comprehensive orthodontic treatment on PA # 202218100388800 to both (1) Appellant's family and (2) the provider who submitted this PA request.⁴

² Upon review post-hearing it is interesting to note that, despite the claim of never receiving x-rays or photos, that DentaQuest was able to somehow come up with its own independent scoring on the last page of Exhibit 4.

³ The Hearing Officer attempted to acknowledge Appellant's submission and communicate the MassHealth response to the Appellant's mother but there appears to have been a handwritten error made by the Hearing Officer in recording the mother's email address when it was given at hearing. For purposes of expediency, this decision was drafted and will be sent in lieu of the email update.

⁴ DentaQuest should take note that Appellant's sibling was approved for his own treatment with the same orthodontic provider, and DentaQuest should take care to make sure the appropriate administrative approvals are properly sent for both children.

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.

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.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: Appeals Coordinator @ DentaQuest