

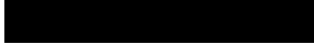
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2205587
<b>Decision Date:</b>	9/8/2022	<b>Hearing Date:</b>	08/29/2022
<b>Hearing Officer:</b>	Christopher Jones		

**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

<b>Appeal Decision:</b>	Approved	<b>Issue:</b>	Prior Authorization – Orthodontia
<b>Decision Date:</b>	9/8/2022	<b>Hearing Date:</b>	08/29/2022
<b>MassHealth’s Rep.:</b>	Dr. Harold Kaplan	<b>Appellant’s Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

## 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 July 11, 2022, MassHealth denied the appellant’s prior authorization request for orthodontia. (Exhibit 3, p. 3.) The appellant filed this appeal in a timely manner on July 26, 2022. (Exhibit 2; 130 CMR 610.015(B).) 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 orthodontia because it had already paid another orthodontist to put braces on the appellant.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431 and 420.408, in determining that that medically necessary orthodontia is nonetheless non-covered because of a once-per-lifetime service limitation.

## Summary of Evidence

The parties agreed regarding all of the facts underlying this matter. The appellant is a child who was previously found eligible for comprehensive orthodontia coverage. His mother testified that shortly after his braces were initially placed, the appellant was diagnosed with cancer, and his cancer

treatment necessitated the removal of his braces. Because of this, though braces were approved and started, his teeth remain in handicapping malocclusion as defined by 130 CMR 420.431. Dr. Kaplan confirmed that the appellant's bite qualifies for coverage under the Handicapping Labio-Lingual Deviations ("HLD") Scale. However, he was unable to overturn MassHealth's denial because MassHealth's regulations only allow for payment for braces once per member.

The appellant's mother testified that they could not go back to the orthodontist who originally placed the braces because the appellant is now wheelchair bound, and that facility is not handicapped accessible. She also confirmed that her son is covered by MassHealth Standard coverage, which is also documented in a MassHealth computer system printout included as Exhibit 4.

## **Findings of Fact**

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

1. The appellant is a child who is covered by MassHealth Standard. (Testimony by the appellant's representative; Exhibit 4.)
2. The appellant's teeth are in handicapping malocclusion as defined by MassHealth regulations and the HLD Scale. (Testimony by Dr. Kaplan.)
3. On or around July 11, 2022, MassHealth denied prior authorization for comprehensive orthodontia because MassHealth had already paid another orthodontist for braces on the appellant. (Exhibit 3, pp. 3.)

## **Analysis and Conclusions of Law**

Federal law requires that Medicaid agencies provide "early and periodic screening, diagnostic, and treatment services" to "all persons in the State who are under the age of 21 and who have been determined to be eligible for medical assistance including services described in section 1396d(a)(4)(B) of this title ... ." (42 USC § 1396a(a)(43).) "Medical assistance" includes "early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21 ... ." (42 USC § 1396(a)(4)(B).)

The term "early and periodic screening, diagnostic, and treatment services" means the following items and services:

...

(3) Dental services—

(A) which are provided—

(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

(42 USC § 1396d(r), (3).)<sup>1</sup>

MassHealth's regulations limit eligibility for early and periodic screening, diagnostic, and treatment ("EPSDT") services to "MassHealth Standard and MassHealth CommonHealth members younger than 21 years old ... ." (130 CMR 450.140(A)(1).) MassHealth's dental benefits, as detailed at 130 CMR 420.000, are available for more coverage types than just CommonHealth and Standard members under the age of 21. (See 130 CMR 450.105.)

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, **once per member per lifetime** 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.

(130 CMR 420.431 (emphasis **in bold**).)

However, MassHealth also "**pays for all medically necessary dental services for EPSDT-eligible members** in accordance with 130 CMR 450.140 ... , **without regard to service limitations described in 130 CMR 420.000**, and with prior authorization." (130 CMR 420.408 (emphasis **in bold**).)

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<sup>1</sup> Federal regulation mirrors the statutory language:

(c) *Diagnosis and treatment.* In addition to any diagnostic and treatment services included in the plan, the agency must provide to eligible EPSDT beneficiaries, the following services, the need for which is indicated by screening, even if the services are not included in the plan –

(2) Dental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health; and ...

(42 CFR § 441.56.)

As a MassHealth Standard member, the appellant is EPSDT-eligible. Therefore, MassHealth is obliged to cover his “medically necessary dental services ... without regard to service limitations,” such as the “once per member lifetime” limitation described in 130 CMR 420.431(C)(3). For these reasons, this appeal is APPROVED.

## **Order for MassHealth**

Approve the appellant’s requested comprehensive orthodontia.

## **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.

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Christopher Jones  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA