

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Approved;  
Dismissed

**Appeal Number:** 2205778

**Decision Date:** 10/20/2022

**Hearing Date:** 09/12/2022

**Hearing Officer:** Patricia Mullen

**Record Open to:** 10/12/2022

**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>	Approved; Dismissed	<b>Issue:</b>	Orthodontic treatment
<b>Decision Date:</b>	10/20/2022	<b>Hearing Date:</b>	09/12/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	Guardian
<b>Hearing Location:</b>	Quincy Harbor South		

## 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 27, 2022, MassHealth denied the appellant's request for prior authorization for orthodontic treatment because MassHealth determined that the appellant does not have a handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on August 2, 2022. (130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 130 CMR 610.032).

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

## Summary of Evidence

The appellant is a child and was represented telephonically at the hearing by his guardian. MassHealth was represented telephonically at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on July 25, 2022. (Exhibit 4, p. 3). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the appellant's mouth. (Exhibit 4) The appellant's orthodontist noted that a medical necessity narrative would not be submitted. (Exhibit 4, p. 12).

The appellant's representative testified that she had a previous hearing with regard to the appellant's orthodontics and submitted a letter from the appellant's physician. The MassHealth representative stated that no such letter was submitted with this request. The record was left open for one month, until October 12, 2022, to give the appellant's representative the opportunity to submit a medical narrative from the appellant's physician. (Exhibit 6). During the record open period, the appellant's representative submitted a letter dated September 30, 2022 from the appellant's physician which states that the appellant is status post for a below knee amputation after amniotic band syndrome and would benefit from good nutrition for healing for which good dental care with braces would be helpful. (Exhibit 7, p. 4).

The MassHealth representative reviewed the appellant's physician's letter and overturned MassHealth's denial. (Exhibit 9). The MassHealth representative stated that the physician's medical narrative supports the medical necessity for the requested orthodontic treatment. (Exhibit 9). The MassHealth representative noted that he calculated a HLD score of 21 and an HLD score of 22 is enough to overturn MassHealth's denial. (Exhibit 9). The MassHealth representative wrote that in light of the high HLD score, coupled with the medical necessity narrative, he was instructing MassHealth to approve the appellant's request for orthodontic treatment. (Exhibit 9).

## **Findings of Fact**

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

1. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these, along with photographs and x-rays of the appellant's mouth, to DentaQuest.
3. MassHealth calculated an HLD score of 21.
4. In a letter dated September 30, 2022, the appellant's physician states that the appellant is status post for a below knee amputation after amniotic band syndrome and would benefit

from good nutrition for healing for which good dental care with braces would be helpful.

5. The MassHealth representative determined that the medical narrative coupled with the HLD score of 21 supported the medical necessity for orthodontic treatment for the appellant.
6. The MassHealth representative overturned MassHealth's denial and approved the appellant's request for prior authorization for orthodontic treatment.

## **Analysis and Conclusions of Law**

### **Dismissal of a Request for a Hearing**

(A) BOH will dismiss a request for a hearing when...

- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties...

(130 CMR 610.035(A)(8)).

Adjustments Resolving Issues. The MassHealth agency or the acting entity may make an adjustment in the matters at issue before or during an appeal period. If the parties' adjustment resolves one or more of the issues in dispute in favor of the appellant, the hearing officer, by written order, may dismiss the appeal in accordance with 130 CMR 610.035 as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement in favor of the appellant. BOH will not delay a fair hearing because a possible adjustment is under consideration, unless the appellant requests or agrees to such a delay.

(130 CMR 610.051(B)).

After reviewing a medical narrative from the appellant's physician, the MassHealth representative determined that the request for prior authorization for orthodontic treatment met MassHealth medical necessity requirements and overturned MassHealth's denial. Because MassHealth has approved the appellant's request for prior authorization for orthodontic treatment there is no issue left in dispute for appeal. Accordingly the appeal is dismissed pursuant to 130 CMR 610.051(B).

## **Order for MassHealth**

If MassHealth has not already done so, rescind the denial notice dated July 27, 2022 and approve the appellant's request for prior authorization for orthodontic treatment.

## **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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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc:MassHealth Representative: DentaQuest