

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2207882
Decision Date:	12/15/2022	Hearing Date:	11/30/2022
Hearing Officer:	Rebecca Brochstein		

Appearances for Appellant:



Appearances for MassHealth:

Dr. Harold Kaplan



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

APPEAL DECISION

Appeal Decision:	Denied	Issue:	Prior Approval for Orthodonture
Decision Date:	12/15/2022	Hearing Date:	11/30/2022
MassHealth Rep.:	Dr. Harold Kaplan	Appellant Rep.:	Pro Se
Hearing Location:	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

Through a notice dated October 12, 2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on October 24, 2022 (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

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

MassHealth was represented at hearing by an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on October 12, 2022. MassHealth reviewed the prior authorization request and determined that MassHealth had previously approved and paid for the appellant's orthodontic treatment. The MassHealth representative testified that records show the appellant was banded on October 2, 2014, and that the agency paid the same provider for the appellant's treatment. He stated that MassHealth regulations only allow for payment for comprehensive orthodontic treatment once per lifetime. On October 12, 2022, MassHealth notified the appellant that the prior authorization request had been denied on this basis.

The appellant, who is over the age of 18, appeared at the hearing telephonically along with her mother.¹ She confirmed that she was approved for braces in 2014 and had them on for about four years. She stated that when she started treatment she was told she was missing a tooth and that she would be able to get an implant to fill the space when she turned 18. After her braces were removed, her provider gave her a retainer for her lower teeth and an "Essix" appliance (with a "fake tooth" to cover the space) to keep her upper teeth in place. She indicated that she was looking forward to getting an implant to fill the space when she got older. However, once she turned 18 and saw a dentist about getting an implant, she was told that the space that was preserved during her orthodontic treatment is too small to accommodate an abutment for an implant. The appellant stated that she went back to the orthodontist's office, where they took new X-rays and submitted a new prior authorization request. She added that she was told the orthodontist would not speak to her personally unless she had MassHealth approval for treatment or agreed to pay for it out of pocket. The appellant stated that she wishes the orthodontist had been more careful to make sure there was sufficient space for the future implant.

The appellant's mother argued that the problem with the spacing was the orthodontist's fault, and was not caused by the appellant. She stated that the appellant is still in school and that her self-image is affected by the gap in her teeth, which is visible when she smiles. The mother added that she is a single mother and cannot afford the treatment herself. In response, the MassHealth orthodontist acknowledged that the appellant does not have sufficient space for an implant, adding that the appellant's orthodontist knows that MassHealth will only pay for treatment once.

Findings of Fact

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

1. In or around October 2014, MassHealth approved the appellant for coverage of comprehensive orthodontic treatment. She was banded on October 2, 2014, and had braces on for approximately four years.

¹ The appellant also submitted a detailed letter along with her request for hearing. See Exhibit 2.

2. The appellant has a missing upper tooth. As part of the orthodontic treatment that began in 2014, the appellant was to have a space preserved in her arch so she could seek an implant when she turned 18 in 2022.
3. The appellant sought treatment for an implant when she turned 18, but was told the space in her upper arch is too small to accommodate an abutment for an implant.
4. The appellant went back to her original orthodontist, and on October 12, 2022, he submitted another prior authorization request for comprehensive orthodontic treatment to MassHealth.
5. On October 12, 2022, MassHealth denied the prior authorization request on the basis that coverage for comprehensive orthodontic treatment is limited to once per lifetime per patient.
6. On October 24, 2022, the appellant filed a request for a fair hearing.

Analysis and Conclusions of Law

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*.

In this case, MassHealth denied the appellant's prior authorization request for coverage of comprehensive orthodontic treatment on the basis that the agency had previously approved and paid for this service. There is no dispute that MassHealth paid the appellant's orthodontist for treatment that began in 2014. The appellant argues, however, that the orthodontist did not take the necessary measures to ensure she would have enough space to accommodate a future implant where she is missing an upper tooth, and that further treatment is now necessary to make space. While the appellant's situation is sympathetic, the regulations do not provide for any exceptions to the once-per-member-per-lifetime rule. As such, there was no error to MassHealth's denial of this prior authorization request.

This appeal is therefore 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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: DentaQuest