

# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2207963
<b>Decision Date:</b>	1/11/2023	<b>Hearing Date:</b>	12/07/2022
<b>Hearing Officer:</b>	Christine Therrien		

**Appearance for Appellant:**  
Pro se

**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>	Denied	<b>Issue:</b>	Orthodontics
<b>Decision Date:</b>	1/11/2023	<b>Hearing Date:</b>	12/07/2022
<b>MassHealth's Rep.:</b>	Dr. Kaplan	<b>Appellant's Rep.:</b>	Pro se
<b>Hearing Location:</b>	Quincy Harbor South - Telephonic		

## Authority

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

## Jurisdiction

The appellant received a notice dated 9/19/22 stating: MassHealth has denied your request for full orthodontic treatment. (130 CMR 420.431(E)(1) and Exhibit 1). The appellant filed this appeal timely on 10/25/22. (130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that appellant is not eligible for full orthodontic treatment.

## Summary of Evidence

MassHealth was represented by a licensed orthodontist who stated the appellant requested prior authorization for full orthodontic treatment, procedure code D8090 which is orthodontic treatment for the adult dentition. (Exhibit 1). The orthodontist testified that the appellant's request was denied because the appellant is over the age of 21 and orthodontics are not a covered service for anyone over the age of 21.

The appellant testified that she has a low income and pain in her jaw and cannot afford to pay for braces herself. The appellant testified that she had a traumatic facial injury as a child and has undergone corrective surgeries to her jaw. The appellant stated that braces are the next step in completed the process. The appellant testified that MassHealth paid for her to have braces when she was younger and asked that this be considered continuation of care.

The orthodontist testified that MassHealth will only pay for orthodontics one time and once the braces are removed the treatment is deemed completed. The orthodontist stated that even if that were not the case the appellant is still over age 21 and orthodontics are not a covered service for members who are over age 21 and there are no exceptions.

## Findings of Fact

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

1. MassHealth was represented by a licensed orthodontist.
2. The appellant requested prior authorization for full orthodontic treatment, procedure code D8090.
3. The appellant's request was denied because the appellant is over the age of 21.
4. Orthodontics are not a covered service for anyone over the age of 21 and there are no exceptions.

## Analysis and Conclusions of Law

While the appellant's dental condition may benefit from orthodontic treatment the requirements of 130 CMR 420.431(A) are clear and unambiguous.

### 130 CMR 420.431: Service Descriptions and Limitations: Orthodontic Services

- (A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets **prior to the member's 21st birthday**.

(emphasis added)

130 CMR 420.421 governs the authorization of covered and noncovered services. This regulation states that MassHealth will not authorize the payment for services not listed in Subchapter 6 of the

MassHealth Provider Manual for Dental Services.<sup>1</sup>

Per the MassHealth Provider Manual, Subchapter 6 and the “MassHealth Dental Program Office Reference Manual,” the procedure code D8090 is not a covered service for members over the age of 21.<sup>2</sup> Based on the evidence MassHealth was within regulatory authority in denying the appellant’s prior authorization request for procedure code D8090, full orthodontic treatment.

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.

---

Christine Therrien  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 2, MA

---

<sup>1</sup> 130 CMR 420.421: Covered and Noncovered Services: Introduction (A) Medically Necessary Services. The MassHealth agency pays for the following dental services when medically necessary: (1) the services with codes listed in Subchapter 6 of the Dental Manual, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456. *See also* Commonwealth of Massachusetts MassHealth Provider Manual Series, Dental Services, Subchapter 6. Service Codes (Jan. 1, 2022), <https://www.mass.gov/files/documents/2022/01/14/sub6-den.pdf>.

<sup>2</sup> MassHealth Dental Program Office Reference Manual (Jun. 1, 2022), <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>