

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2301255
<b>Decision Date:</b>	4/4/2023	<b>Hearing Date:</b>	03/22/2023
<b>Hearing Officer:</b>	Thomas J. Goode		

**Appearance for Appellant:**  
Mother

**Appearance for MassHealth:**  
Dr. Harold Kaplan, DMD



*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>	4/4/2023	<b>Hearing Date:</b>	03/22/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Remote		

## 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 December 14, 2022, MassHealth denied Appellant's request for prior authorization of a continuation of comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on February 15, 2023 (130 CMR 610.015; Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied Appellant's request for prior authorization of a continuation of comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for a continuation of comprehensive orthodontic services.

## Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Kaplan testified that he is a licensed orthodontist with many years of clinical experience. Appellant's orthodontic provider submitted

a prior authorization request for a one-year continuation of comprehensive orthodontic treatment with X-rays and photographs. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 7 points. Appellant's orthodontic provider's HLD Form does not record any autoqualifiers and includes a form entitled Medical Necessity form which indicates that comprehensive treatment is necessary to correct a condition that causes malfunction due to an open posterior bite that causes gum and bone infirmity (Exhibit 1, pp. 7-11). Dr. Kaplan testified that photographs show that Appellant has full upper and lower braces in place and questioned why a prior authorization for one-year of full comprehensive orthodontic treatment was submitted to MassHealth rather than a request to remove the braces as it appears Appellant's treatment has been completed (Exhibit 1, p. 16). Because the prior authorization request submitted by Appellant's orthodontist is for one year of comprehensive orthodontics which is not necessary, the prior authorization request for comprehensive orthodontics was denied. Dr. Kaplan testified that Appellant should submit a request for continuation of care to remove the braces.

Appellant's mother testified that Appellant's braces were paid for by MassHealth about 4 years ago. She and Appellant moved to Florida where orthodontic treatment was continued, and moved back to Massachusetts 5 months ago. Appellant's mother testified that Appellant still has braces on, and his treatment plan has been completed. Appellant's mother stated that she is not requesting a full year of comprehensive treatment but is seeking approval to remove Appellant's braces and authorization for retainers.

## **Findings of Fact**

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

1. Appellant's orthodontic provider submitted a prior authorization request for one year of comprehensive orthodontic treatment with X-rays and photographs.
2. Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) Form which requires a total score of 22 or higher for approval and recorded a score of 7 points.
3. Appellant's orthodontic provider's HLD Form does not record any autoqualifiers and includes a form entitled Medical Necessity form which indicates that comprehensive treatment is necessary to correct a condition that causes malfunction due to an open posterior bite that causes gum and bone infirmity.
4. Appellant's braces were paid for by MassHealth about 4 years ago. Appellant moved to Florida where orthodontic treatment was continued and moved back to Massachusetts about 5 months ago.
5. Appellant is not requesting a full year of comprehensive treatment but is seeking approval to remove Appellant's braces and authorization for retainers.

## Analysis and Conclusions of Law

Regulation 130 CMR 420.431(C)(5) states that the MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five (5) visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A), which requires prior authorization. Dr. Kaplan's testimony that Appellant's treatment appears to have been completed was corroborated by Appellant's mother who testified that Appellant started orthodontic treatment 4 years ago<sup>1</sup>, has completed treatment and that she sought authorization to remove Appellant's braces, which is a covered service subject to prior authorization; however, Appellant's orthodontic provider submitted a prior authorization request for an additional year of orthodontic treatment which is not necessary. Therefore, MassHealth correctly determined that the services requested are not medically necessary, and correctly denied the prior authorization request.<sup>2</sup>

## 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.

---

Thomas J. Goode  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA

---

<sup>1</sup> Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three (3) calendar years (130 CMR 420.431(C)(3)).

<sup>2</sup> See 130 420.410: Prior Authorization (A) Introduction. (1) The MassHealth agency pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process.