

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2301937

**Decision Date:** 4/20/2023

**Hearing Date:** 04/10/2023

**Hearing Officer:** Patricia Mullen

**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>	Denied	<b>Issue:</b>	Interceptive orthodontic treatment
<b>Decision Date:</b>	4/20/2023	<b>Hearing Date:</b>	04/10/2023
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	Grandmother/ 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 February 22, 2023, MassHealth denied the appellant's request for prior authorization for interceptive orthodontic treatment, because MassHealth determined that the submitted documentation did not meet MassHealth criteria for coverage of interceptive orthodontic treatment. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on March 10, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior approval is valid grounds for appeal. (see 130 CMR 610.032). The appellant's representative signed the appeal as the appellant's guardian, but the decree of guardianship was not sent with the appeal. (Exhibit 2). Subsequent to the hearing, the appellant's representative submitted the decree of guardianship to the Board of Hearings. (Exhibit 6).

## Action Taken by MassHealth

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

## Summary of Evidence

The appellant is a child who was represented telephonically at the hearing by his guardian, who is also his grandmother. MassHealth was represented telephonically at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the orthodontic prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for interceptive orthodontic treatment for the appellant on February 20, 2023. (Exhibit 3, p. 3). The appellant's orthodontist completed a Prior Authorization Request and submitted it along with photographs of the appellant's mouth. (Exhibit 3). The appellant's orthodontist wrote that the appellant presents with a class I skeletal and dental relationship with unilateral right posterior crossbite. (Exhibit 3, p. 14). The appellant's orthodontist noted that the treatment plan involves maxillary palate expansion followed by partial upper braces to redistribute the space for crowded upper 3's. (Exhibit 3, p. 14).

The MassHealth representative testified that interceptive treatment treats a specific problem and is not full orthodontic treatment. The MassHealth representative testified that he examined the submitted photographs and x-rays with a magnifying glass and the submitted documentation does not meet the criteria for MassHealth coverage of interceptive treatment. The MassHealth representative testified that the criteria for MassHealth coverage of interceptive orthodontic treatment is as follows:

- Two or more teeth, numbers 6 through 11, in crossbite with photographic evidence documenting 100% of the incisal edge in complete overlap with opposing tooth/teeth;
- Crossbite of teeth numbers 3, 14 or 19, 30 with photographic evidence documenting cusp overlap completely in fossa, or completely buccal-lingual of opposing tooth;
- Crossbite of teeth number A, T or J, K with photographic evidence documenting cusp overlap completely in fossa, or completely buccal or lingual of opposing tooth;
- Crowding with radiographic evidence documenting current bony impaction of teeth numbers 6 through 11, or teeth numbers 22 through 27, that requires either serial extraction(s) or surgical exposure and guidance for the impacted tooth to erupt into the arch;
- Crowding with radiographic evidence documenting resorption of 25% of the root of an adjacent permanent tooth.
- Class III malocclusion, as defined by mandibular protrusion of greater than 3.5mm, anterior crossbite of more than 1 tooth/ reverse overjet, or Class III skeletal discrepancy, or hypoplastic maxilla with compensated incisors requiring treatment at an early age with protraction facemask, reverse pull headgear, or other appropriate device.

The MassHealth representative stated that the photographs do not show evidence of 2 or more

anterior teeth (6-11) in crossbite, nor do the photographs show crossbite of permanent molars (3, 14, 19, 30), nor do they show evidence of crossbite with overlap. The MassHealth representative testified further that the x-rays of the appellant's teeth do not show bony impactions and the appellant still has lots of baby teeth in his mouth. The MassHealth representative stated that the x-rays do not show crowding with evidence of resorption of 25% of the root of an adjacent permanent tooth. The MassHealth representative noted that the appellant does not have a mandibular protrusion of greater than 3.5mm, anterior crossbite of more than 1 tooth/ reverse overjet, or Class III skeletal discrepancy, or hypoplastic maxilla with compensated incisors. The MassHealth representative testified further that the appellant does not have a deep, impinging, overbite.

The MassHealth representative noted that the appellant's orthodontist reported that the appellant has a unilateral right posterior crossbite, however the first permanent molar cannot be seen in the photographs. (Exhibit 3, p. 15). The MassHealth representative stated that the appellant's orthodontist needs to submit better photographs showing the appellant's entire dentition. The MassHealth representative advised the appellant's representative to bring the appellant back to the orthodontist 6 months after his last visit, or sometime after August 20, 2023, to be re-evaluated.

The appellant's representative noted that she would bring the appellant back to the orthodontist in late August, 2023. The appellant's representative was advised to bring a copy of the appeal decision to the appointment so that the appellant's orthodontist could explain to her if the appellant meets the MassHealth criteria for coverage of interceptive treatment.

## **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 interceptive orthodontic treatment for the appellant.
2. The appellant's orthodontist completed a Prior Authorization Request and submitted it along with photographs and x-rays of the appellant's mouth.
3. The photographs of the appellant's teeth do not show two or more anterior teeth in crossbite, nor crossbite of permanent molars (3, 14, 19, 30), nor a crossbite with overlap.
4. The x-rays of the appellant's teeth do not show bony impactions, nor crowding with evidence of resorption of 25% of the root of an adjacent permanent tooth.
5. The appellant does not have a mandibular protrusion of greater than 3.5mm, anterior crossbite of more than 1 tooth/ reverse overjet, or Class III skeletal discrepancy, or hypoplastic maxilla with compensated incisors.
6. The appellant does not have a deep, impinging overbite.

# Analysis and Conclusions of Law

## 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.

## (B) Definitions.

(1) Pre-orthodontic Treatment Examination – includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) Interceptive Orthodontic Treatment – includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.

(3) Comprehensive Orthodontic Treatment – includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits – periodic visits which may include but are not limited to updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

## (C) Service Limitations and Requirements.

(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six (6) months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's twenty-first birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.

## (2) Interceptive Orthodontics.

(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.

(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions:

constricted palate, deep impinging overbite, Class III malocclusion including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.

(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.

(130 CMR 420.431(A), (B), (C)(1), (2)).

The clinical standards used by MassHealth to determine if interceptive orthodontic treatment meets MassHealth criteria is set forth in Appendix F of the MassHealth Dental Manual. The criteria is as follows:

- Two or more teeth, numbers 6 through 11, in crossbite with photographic evidence documenting 100% of the incisal edge in complete overlap with opposing tooth/teeth;
- Crossbite of teeth numbers 3, 14 or 19, 30 with photographic evidence documenting cusp overlap completely in fossa, or completely buccal-lingual of opposing tooth;
- Crossbite of teeth number A, T or J, K with photographic evidence documenting cusp overlap completely in fossa, or completely buccal or lingual of opposing tooth;
- Crowding with radiographic evidence documenting current bony impaction of teeth numbers 6 through 11, or teeth numbers 22 through 27, that requires either serial extraction(s) or surgical exposure and guidance for the impacted tooth to erupt into the arch;
- Crowding with radiographic evidence documenting resorption of 25% of the root of an adjacent permanent tooth.
- Class III malocclusion, as defined by mandibular protrusion of greater than 3.5mm, anterior crossbite of more than 1 tooth/ reverse overjet, or Class III skeletal discrepancy, or hypoplastic maxilla with compensated incisors requiring treatment at an early age with protraction facemask, reverse pull headgear, or other appropriate device.

The photographs of the appellant's teeth do not show evidence of 2 or more anterior teeth (6-11) in crossbite, nor do the photographs show crossbite of permanent molars (3, 14, 19, 30), nor do they show evidence of crossbite with overlap. The x-rays of the appellant's teeth do not show bony impactions, nor do they show crowding with evidence of resorption of 25% of the root of an adjacent permanent tooth. The appellant does not have a mandibular protrusion of greater

than 3.5mm, anterior crossbite of more than 1 tooth/ reverse overjet, or Class III skeletal discrepancy, or hypoplastic maxilla with compensated incisors. The appellant does not have a deep, impinging, overbite. Although the appellant's orthodontist reported that the appellant has a unilateral right posterior crossbite, the first permanent molar cannot be seen in the photographs.

The photographic and x-ray evidence do not support that the appellant meets MassHealth criteria for coverage of interceptive orthodontic treatment. The appellant is advised to go back to the orthodontist after August 20, 2023 to be re-evaluated. The appellant's orthodontist should be sure to submit photographs in which all of the appellant's teeth can be clearly seen.

MassHealth's denial is upheld and the 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.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest