

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2302234
<b>Decision Date:</b>	7/7/2023	<b>Hearing Date:</b>	04/24/2023
<b>Hearing Officer:</b>	Mariah Burns	<b>Record Open to:</b>	05/22/2023

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan for 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>	Comprehensive Orthodontic Treatment
<b>Decision Date:</b>	7/7/2023	<b>Hearing Date:</b>	04/24/2023
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	No

### 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 26, 2023, MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment because MassHealth determined that the appellant exceeded his maximum benefit allowance. *See* 130 CMR 420.431(C)(3) and Exhibit 1. The appellant filed this appeal in a timely manner on March 20, 2023. *See* 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. *See* 130 CMR 610.032.

### Action Taken by MassHealth

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

### Issue

The appeal issue is whether MassHealth was correct in determining that the appellant is ineligible for coverage of comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor child who was represented telephonically at hearing by a parent. MassHealth was represented by an orthodontic consultant from DentaQuest, a third-party contracted to run MassHealth's dental program. The following is a summary of the testimony and evidence provided at hearing and during the record open period:

On February 23, 2023, the MassHealth received a prior authorization request from Align Orthodontics on behalf of the appellant requesting coverage for comprehensive orthodontic treatment. On February 26, 2023, MassHealth denied the request, stating "Service exceeds benefit allowance. Service is limited to one per lifetime per patient." Exhibit 5 at 3. The appellant's mother, on his behalf, submitted a timely fair hearing request on March 20, 2023.

At hearing, the MassHealth representative testified that MassHealth previously paid for comprehensive orthodontic treatment for the appellant. Neither the previous approval notice nor any payment records were provided as evidence by MassHealth. The MassHealth representative reported that he believes the appellant otherwise qualifies for coverage of treatment.

The appellant's mother reported that her son was previously evaluated and approved for coverage of comprehensive orthodontic treatment with a different provider. She was unsatisfied with the treatment the appellant received, and their dentist referred the family to a second orthodontist, who submitted the prior authorization request at issue here.

The record was kept open until May 22, 2023, for the MassHealth representative to conduct some research into the appellant's case. On May 3, 2023, he reported the following via email to the hearing officer:

Upon further research, Mass Health determined that [REDACTED] had received multifaceted orthodontic treatment. Due to poor cooperation in keeping appointment, previous orthodontist sent a certified letter stating that unless keeping appointment improved treatment would have to be discontinued. After no improvement, treatment was discontinued. Mass Health limits orthodontic treatment to once per lifetime. Denial is therefore upheld.

Exhibit 6 at 2. When this hearing officer requested that the MassHealth representative provide a copy of the certified letter sent to the appellant, the MassHealth representative was unable to do so. The correspondence was sent to the appellant's mother by mail, and her written response indicated a belief that the previous orthodontist, DotSmiles, was intentionally prolonging the appellant's treatment and did not install his brackets. Exhibit 6 at 3.

## Findings of Fact

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

1. The appellant is a MassHealth member under the age of 21. Exhibit 4.
2. On February 22, 2023, the appellant's provider requested prior authorization for comprehensive orthodontic treatment and submitted an Orthodontics Prior Authorization Form, an HLD Form, photographs, and x-rays. Exhibit 5.
3. On March 14, 2023, MassHealth denied the appellant's prior authorization request, as MassHealth records indicated that the appellant has already received coverage of comprehensive orthodontic treatment in his lifetime. Testimony, Exhibit 5 at 3.
4. The appellant previously received prior authorization for comprehensive orthodontic treatment with a different provider. He started his treatment with that provider, but his mother became displeased with the service they were receiving and ceased treatment. Testimony.
5. The prior authorization request submitted on February 22, 2023 was from a different provider, and there is no evidence in the record that the provider submitted the transfer paperwork required by the regulations. Testimony, Exhibit 5 at 11.
6. The appellant otherwise clinically qualifies for coverage of comprehensive orthodontic treatment. Testimony.

## Analysis and Conclusions of Law

MassHealth pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. (130 CMR 420.410(A)(1)). A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to MassHealth.

130 CMR 450.204(A). Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment codified at 130 CMR 420.000

and in the MassHealth *Dental Manual*. Specifically, 130 CMR 420.431(C)(3) states, in relevant part:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, only once per member per lifetime for a member younger than 21 years old and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the *Dental Manual*.

Thus, MassHealth typically only pays for treatment once per member in their lifetime, coverage of which is subject to prior authorization.

MassHealth further allows members to “transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of visits remaining...Providers must submit requests using the form specified by MassHealth.” *Id.* at 420.431(C)(7).

Here, although the initial approval notice was not provided as part of the record, there is no dispute that the appellant both meets the medical necessity requirements and was previously approved for prior authorization of treatment.<sup>1</sup> At issue then is whether the appellant’s treatment was properly transferred from the first provider to the second. There is no evidence in the record that the second provider submitted the proper transfer paperwork as required by 130 CMR 420.431(C)(7). As a provider who accepts MassHealth, the provider should be familiar both with their patients clinical history and the requisite MassHealth regulations. It was therefore the second provider’s responsibility to ensure that the correct prior authorization form was submitted, and there is no evidence that the provider did so.

For those reasons, MassHealth was within its discretion to deny the appellant’s request for prior authorization. The appeal is denied.

The appellant should be advised to contact the second orthodontist to submit the proper transfer paperwork, provided that the appellant has not exceeded his treatment period of three years. See 130 CMR 420.431(3).

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<sup>1</sup> MassHealth, and DentaQuest as its agent, should take note that the Fair Hearing Rules require them to provide any and all evidence upon which a decision is made. See 130 CMR 610.062(A). In the future, any denial because a member exceeded their maximum benefit allowance should be accompanied by the previous approval notice and proof of payment at hearing.

## 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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Mariah Burns  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA