

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Approved	<b>Appeal Number:</b>	2304592
<b>Decision Date:</b>	07/25/2023	<b>Hearing Date:</b>	07/19/2023
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearances for Appellant:**



**Appearance for MassHealth:**

Dr. David Cabeceiras, 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>	Approved	<b>Issue:</b>	Orthodontic treatment
<b>Decision Date:</b>	07/25/2023	<b>Hearing Date:</b>	07/19/2023
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras, DentaQuest	<b>Appellant's Reps.:</b>	Guardian/mother; grandmother
<b>Hearing Location:</b>	Taunton MassHealth Enrollment Center (video)		

### 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 June 1, 2023, MassHealth denied the appellant's request for prior authorization for comprehensive orthodontic treatment because MassHealth determined that the service exceeds the benefit allowance in that it is limited to once per lifetime per member. (see 130 CMR 420.431(C) and Exhibit 9, p. 3). The appellant filed this appeal in a timely manner on June 11, 2023. (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization 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, pursuant to 130 CMR 420.431, in determining that the appellant is precluded from authorization for comprehensive orthodontic treatment, because she was authorized for such treatment in the past.

## Summary of Evidence

The appellant is under age 21 and was represented at the video hearing by her guardian/mother and by her grandmother. The appellant's guardian verified the appellant's identity. MassHealth was represented by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on May 25, 2023. (Exhibit 9, p. 3). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the appellant's mouth. (Exhibit 4). The appellant's orthodontist checked off "yes" to the question as to whether a medical necessity narrative was being submitted. (Exhibit 9, p. 8).

The MassHealth representative testified MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. The MassHealth representative stated that the HLD form lists 13 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. If a member has any of the 13 autoqualifiers or an HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Testimony, exhibit 9, p. 7). One of the autoqualifiers is anterior open bite of 2 millimeters, or more, of 4 or more teeth per arch. (Exhibit 9, p. 7). The appellant's provider orthodontist indicated that the appellant meets this autoqualifier and the MassHealth representative agreed. The MassHealth representative testified that the appellant meets the medical necessity criteria for orthodontic coverage, but the case was denied based on the administrative limitation regarding past treatment. (Exhibit 9, p. 3). The MassHealth representative stated that MassHealth coverage of orthodontic treatment is limited to once per member, per lifetime.

The appellant's representative stated that the appellant had orthodontic treatment when she was 10 years old, for an 18 month period, but the braces did not help the appellant's teeth. The appellant's representative noted that the orthodontist at that time charged her for the appellant's retainer. The MassHealth representative noted that the retainer should have been included in MassHealth's coverage of orthodontic treatment and the orthodontist should not have charged the appellant. The appellant's representative stated that the appellant suffers from jaw pain and had TMJ surgery in December, 2022. (Exhibit 9, p. 14). The appellant's guardian noted that the appellant has been approved for orthognathic surgery, but needs orthodontic treatment for the surgery to be successful. (Exhibit 9, p. 19).

## 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 orthodontic treatment for the appellant.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and an HLD Form and submitted these, along with photographs and x-rays of the appellant's mouth, to DentaQuest.
3. The appellant meets the HLD autoqualifier of anterior open bite of 2 millimeters, or more, of 4 or more teeth per arch.
4. The appellant is open on MassHealth Standard and is under age 21.

## 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.

(130 CMR 420.431(A)).

Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may

request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. 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. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. Comprehensive orthodontic care should commence when the first premolars and 1st permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

(130 CMR 420.431(C)(3)).

MassHealth covers comprehensive orthodontic treatment if the MassHealth member evidences a handicapping malocclusion either by having one of the autoqualifiers listed on the HDL form or by meeting an HLD score of 22 or higher. Comprehensive orthodontic treatment is also covered by MassHealth if it is medically necessary for the member as evidenced by a medical necessity narrative and supporting documentation. MassHealth determined that the appellant meets the autoqualifier of anterior open bite of 2 millimeters, or more, of 4 or more teeth per arch, and thus has evidenced a handicapping malocclusion.

MassHealth denied the appellant's request for prior authorization because MassHealth determined that the appellant has already received orthodontic treatment and coverage is limited to once per member per lifetime.

#### Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction, without regard to service limitations described in 130 CMR 420.000, and with prior authorization.

(130 CMR 420.408).

#### Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction

(A) Legal Basis. (1) In accordance with federal law at 42 U.S.C. 1396d(a)(4)(b) and 1396d(r), and 42 CFR 441.50, and notwithstanding any limitations implied or expressed elsewhere in MassHealth regulations or other publications, the MassHealth agency has established a

program of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, including those who are parents.

(130 CMR 450.140(A)(1)).

Providers of Dental Services. (1) Dental care providers must offer to provide services listed in Appendix W: EPSDT Services: Medical and Dental Protocols and Periodicity Schedules of all MassHealth provider manuals to all members younger than 21 years of age (except members enrolled in MassHealth Limited) in accordance with the Dental Schedule, and must provide or refer such members to assessment, diagnosis, and treatment services. (2) The dental services described in the Dental Schedule are payable when provided by dental providers as described in 130 CMR 420.000: Dental Services.

(130 CMR 450.142(B)).

Because the appellant is under the age of 21 and on MassHealth Standard, she is an EPSDT member. (See 130 CMR 450.140(A)(1)). Because orthodontic treatment of individuals of the appellant's age are among the services listed in the Appendix W referenced in 130 CMR 450.142, I find the service limitation of "once per lifetime" does not apply to this case. MassHealth pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140, without regard to service limitations described in 130 CMR 420.000, and with prior authorization. MassHealth has determined that the appellant's request for prior authorization for comprehensive orthodontic treatment meets medical necessity criteria. The appeal is approved.

## **Order for MassHealth**

Rescind the notice dated June 1, 2023 and approve the appellant's May 25, 2023 request for prior authorization for comprehensive orthodontic treatment.

Within no later than 30 days of the date of this decision and as soon as possible, DentaQuest must issue an approval to both the appellant's parent and the appellant's current orthodontic provider for full comprehensive orthodontic treatment on PA # 202314500099700.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest