

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2306181
Decision Date:	12/8/2023	Hearing Date:	10/25/2023
Hearing Officer:	Marc Tonaszuck	Record Open to:	12/15/2023

Appearance for Appellant:
Pro se

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

Appeal Decision:	Dismissed	Issue:	Comprehensive Orthodontics
Decision Date:	12/8/2023	Hearing Date:	10/25/2023
MassHealth's Rep.:	Dr. Carl Perlmutter, DentaQuest	Appellant's Rep.:	Pro se
Hearing Location:	Springfield MassHealth Enrollment Center		

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 06/01/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). On 07/26/2023, a timely appeal was filed with the Board of Hearings on behalf of the appellant, a minor child (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

A fair hearing took place on 10/25/2023¹, at which time the MassHealth orthodontist testified that the request for comprehensive orthodontic services was denied because the appellant did not meet the HLD Index score of 22 points, did not have an automatic qualifying condition, or documentation of medical necessity for the services.

The appellant appeared at the fair hearing telephonically. He requested an opportunity to provide documentation from his therapist to support his request for braces. His request was granted and the record remained open for the submission until 11/30/2023 (Exhibit 5). On 11/29/2023, the

¹ See Exhibit 3.

appellant's psychiatric mental health nurse practitioner submitted a letter that states:

This letter is to confirm that [the appellant] is currently being treated under my care. [He] reports suffering from low self-esteem and depression due to poor dentition. [He] avoids socialization and prefers to isolate himself in his room because he is not happy with his teeth. He would benefit from a comprehensive orthodontic treatment.

(Exhibit 6.)

On 12/05/2023, Dr. Perlmutter responded to the appellant's submission by overturning MassHealth's denial and approving the comprehensive orthodontic services on the basis of medical necessity (Exhibit 7).

The Fair Hearing regulation concerning Adjustment Procedures and Mediation is set forth at 130 CMR 610.051. Regulations at 130 CMR 610.051(B) states, in relevant part, as follows:

The Division may make an adjustment in the matters at issue before or during a hearing. If the parties agree that the adjustment resolves one or more of the issues in dispute, the hearing officer, by written order, will dismiss the appeal as to all resolved issues, noting as the reason for such dismissal that the parties have reached agreement.

MassHealth initially denied the appellant's request for comprehensive orthodontic services; however during the fair hearing process, documentation was submitted by the appellant and MassHealth overturned the denial and approved the request based on that information. As the MassHealth adjustment resolves the disputed issues concerning eligibility for orthodontic services in the instant case, this appeal is dismissed.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest, MA