

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2308598
Decision Date:	11/13/2023	Hearing Date:	10/25/2023
Hearing Officer:	Marc Tonaszuck	Record Open to:	12/15/2023

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

Appeal Decision:	Dismissed	Issue:	Comprehensive Orthodontic Services
Decision Date:	11/13/2023	Hearing Date:	10/25/2023
MassHealth's Rep.:	Guardian	Appellant's Rep.:	Dr. Carl Perlmutter, DentaQuest
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 09/11/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). On 09/20/2023, 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)¹. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

A fair hearing took place on 10/25/2023², 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's guardian appeared in person with the appellant. The guardian requested an opportunity to provide documentation from the appellant's psychologist to support her request for

¹ The appellant is a minor child who appeared in person at the fair hearing with her mother, her appeal representative.

² See Exhibit 3.

braces. Her request was granted and the record remained open for her submission until 11/30/2023 (Exhibit 5). On 10/28/2023, the appellant's guardian submitted a letter from the appellant's psychologist (Exhibit 6). On 11/02/2023, Dr. Perlmutter responded:

Considering [the appellant's psychologist] attested to her psychotherapy treatment with [the appellant] concerning anxiety disorder and her statement that orthodontic treatment would have a beneficial effect on this problem, I am reversing the "no treatment" decision and are approving [the appellant] for orthodontic treatment to be paid by MassHealth immediately.

(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 has reversed its initial denial of comprehensive orthodontic services; however during the fair hearing process, documentation was submitted by the appellant and MassHealth approved the request based on that information. As the MassHealth adjustment resolves the disputed issues concerning eligibility 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