

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2414396
Decision Date:	10/25/2024	Hearing Date:	10/23/2024
Hearing Officer:	Christopher Jones		

Appearances for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan



*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:	Approved	Issue:	Prior Authorization; Orthodontia; Expiration of PA
Decision Date:	10/25/2024	Hearing Date:	10/23/2024
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Reps.:	Pro se; Parents
Hearing Location:	Tewksbury MassHealth Enrollment Center	Aid Pending:	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 July 25, 2024, MassHealth denied the appellant's prior authorization request for orthodontia (PA # 202420000100100). (See Exhibits 1; 5; 130 CMR 420.431.) The appellant filed this appeal in a timely manner on September 19, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for orthodontia.

Issue

The appeal issue is whether the appellant's previous approvals for comprehensive orthodontia are still applicable to the present request for orthodontia.

Summary of Evidence

The appellant has already received two approvals for orthodontic coverage, and he has not yet been able to start treatment. One of these approvals was ordered through a fair hearing decision, Appeal No. 24176392 (Oct. 29, 2021).¹ In that case, the following facts were found:

1. Appellant is ... a MassHealth member who had his current request for full or comprehensive braces (through PA # 202116800124000) denied by MassHealth in June of 2021. That denial was timely appealed and is the subject of this current appeal. ...
2. The 2021 PA request was denied on the grounds of medical necessity. ...
3. Appellant was previously approved by MassHealth for the same type of request for full comprehensive orthodontic treatment on March 19, 2020 (under PA # 202007900051800), but Appellant never started treatment due to the state of emergency related to COVID-19, and the foster care/adoption process that has been ongoing over the last two years. ...
4. Appellant has a skeletal Class III malocclusion with mandibular prognathism, bimaxillary crowding, a very deep overbite, upper and lower anterior teeth that were described by his provider as “*retroclined*”, and a likely need to for lingual frenectomy after debanding. Appellant’s current orthodontist wrote that, at his age it is “*critical and medical [sic] necessary to start his comprehensive treatment to address this skeletal discrepancy.*” ...

(Appeal No. 24176392, p. 3.)

The hearing officer in that case found MassHealth’s explanations inconsistent, and he approved the request for comprehensive orthodontia. The hearing officer noted that DentaQuest did not claim that the appellant was precluded from further treatment by the “once per lifetime” restriction on orthodontic benefits, and he noted that “the MassHealth Dental Program has procedures in place to allow for an approval to be transferred from one provider to another.” (Appeal No. 24176392, p. 4, n.3.) The decision required DentaQuest/MassHealth to “issue an approval ... for full comprehensive orthodontic treatment on PA # 202116800124000.” (Appeal No. 24176392, p. 5.)

The appellant’s family testified that in January 2022, the provider who had submitted PA # 202116800124000 stopped accepting MassHealth. The appellant found a new orthodontist, but at that time the appellant’s family was undergoing the final review process to adopt the appellant. Because his orthodontia had been delayed once due to his relocation within the foster system, they decided to hold off on requesting authorization until the adoption was finalized. The appellant’s adoption was finalized in [REDACTED] but there continued to be administrative delays

¹ A redacted copy of this decision is included in the administrative record at Exhibit 6.

related to his name change and social security numbers. The appellant finally received his corrected social security information in [REDACTED]

The appellant's current orthodontist submitted PA # 202420000100100 on or around July 18, 2024. DentaQuest denied this coverage on the grounds that it was not medically necessary. MassHealth's representative did not identify any reason why an earlier approval could not be re-activated, even if it may have administratively expired. He did theorize that DentaQuest might not keep records of approvals and only track payments. He did not know exactly how long prior authorization approvals lasted before expiration. The appellant is still a minor child, and he is covered by MassHealth Standard.

Findings of Fact

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

- 1) The appellant was approved for comprehensive orthodontia on March 19, 2020, under PA # 202007900051800. (Exhibit 2, p. 6; see also Appeal No. 24176392.)
- 2) The appellant did not immediately begin treatment, and when they attempted to start treatment, MassHealth denied coverage. A fair hearing decision ordered MassHealth to issue a new approval notice within 30 days of October 29, 2021, based upon PA # 202116800124000. (Appeal No. 24176392.)
- 3) The appellant was unable to start treatment following the approval of the appeal in 2021. Once the appellant was in a position to finally start treatment, the orthodontist provider submitted the present prior authorization request, PA # 202420000100100, on or around July 18, 2024. MassHealth denied this request as not meeting medical necessity. (Exhibits 1; 5.)

Analysis and Conclusions of Law

MassHealth covers orthodontic services when it determines them to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in

² The appellant's mother testified that they had attempted to request prior authorization on two other occasions, which were denied. She testified that she believed these denials were related to the confusion regarding the appellant's name and social security number not matching, so she decided to clear up this issue before proceeding with an appeal.

accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.³ (130 CMR 450.204.)

420.431: 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 [REDACTED] birthday.

...

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member younger than [REDACTED] 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.

...

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 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 [REDACTED] years of age.

³ The Dental Manual is available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited October 23, 2024.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"). (Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>, last visited October 23, 2024.)

...

(4) Orthodontic Treatment Visits. ... **If a member becomes inactive for any period of time, prior authorization is not required to resume orthodontic treatment visits and subsequent billing, unless the prior authorization time limit has expired.** The provider must document the number and dates of orthodontic treatment visits in the member's orthodontic record.

(5) Orthodontic Case Completion. The MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their [REDACTED] birthday, consistent with 130 CMR 420.431(A). ...

(6) Orthodontic Transfer Cases. The MassHealth agency pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. Payment for transfer cases is limited to the number of treatment visits approved. Providers must submit requests using the form specified by MassHealth.

(130 CMR 420.431 (emphasis added).)

In addition to the guidance in the regulations, sub-regulatory guidance is provided in the MassHealth Dental Manual and the Office Reference Manual ("ORM"). (See 130 CMR 420.410 (referencing the Dental Manual and the ORM).)

16.3 Authorization Determination

The initial prior authorization approval for comprehensive orthodontics (D8080/D8070) and first two (2) years of treatment visits (D8670 x 8 units) **will expire 36 months from the date of the authorization.** Approval for the third year of orthodontics will be valid for 36 months. Providers must check the patient's eligibility on each date of service to determine whether it will be an "eligible" service date

(ORM, § 16.3 (emphasis added).)

The expiration date of a prior authorization approval is not clearly defined in the regulations. The regulations anticipate care to last at least three years. The regulations also contemplate members being inactive upon their approvals and transferring care from one orthodontic provider to another. The ORM clarifies that a prior authorization approval expires after three years. There are

other rules governing how to request extensions of care, if the care is not completed within three years of the approval.

Though the expiration of the appellant's initial approval for orthodontia was not addressed in Appeal No. 24176392, it is clear that a 2020 approval would not have expired by October 2021, when the hearing occurred. Further, that fair hearing decision ordered MassHealth to issue a new approval notice on the 2021 prior authorization request. Any approval notice would have issued in November of 2021, at the earliest, and the approval would still have been valid in June 2024 when PA # 202420000100100 was submitted.⁴ Therefore, as the appellant's request for orthodontia was still viable based upon the unexpired approval of PA # 202116800124000, this appeal is APPROVED.

Order for MassHealth

Within 30 days of the date of this decision, issue an approval for full comprehensive orthodontic treatment as requested in PA # 202420000100100.

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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA

⁴ Typically, a fair hearing decision is final and binding on MassHealth. (130 CMR 610.085(A).) However, fair hearing decisions that order payment for a service "have no effect if the appellant has not scheduled or received such medical service within one year from the date of the hearing decision." (130 CMR 610.085(B).) As such, this decision is premised upon the prior authorization approval that DentaQuest was ordered to issue, rather than the decision itself.