

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2417965
Decision Date:	03/20/2025	Hearing Date:	2/3/2025
Hearing Officer:	Cynthia Kopka	Record Open to:	3/17/2025

Appearances for Appellant:




Appearance for MassHealth:

Dr. Katherine Moynihan, 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:	Denied	Issue:	Orthodontic services
Decision Date:	03/20/2025	Hearing Date:	2/3/2025
MassHealth's Rep.:	Dr. Moynihan	Appellant's Reps.:	
Hearing Location:	Tewksbury	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

By notice dated November 12, 2024, MassHealth denied Appellant's prior authorization request for dental procedure code D8080, comprehensive orthodontic treatment, and D8670, periodic orthodontic treatment visits. Exhibit 1. Appellant filed this appeal in a timely manner on November 22, 2024. Exhibit 2. 130 CMR 610.015(B). Challenging the denial of a request for assistance is a valid basis for appeal. 130 CMR 610.032.

A hearing was originally scheduled for December 30, 2024 and dismissed for failure to appear. However, good cause existed to reschedule the hearing for February 3, 2025. Exhibit 3.

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in denying Appellant's request for coverage of comprehensive orthodontic treatment with a new provider.

Summary of Evidence

Appellant, a minor under the age of 21, was represented at hearing by her guardian. The MassHealth representative, a licensed orthodontist, appeared for MassHealth on behalf of DentaQuest. DentaQuest is the third-party contractor that administers and manages the dental program available to MassHealth members. Below is a summary of each party's testimony and the information submitted for hearing.

On or about November 9, 2024, Appellant's orthodontic provider ("the provider" or "the new provider") submitted a request for prior authorization of comprehensive orthodontic treatment on behalf of Appellant. The provider completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these documents with supporting photographs and X-rays to DentaQuest. Exhibit 4.

The provider submitted documents indicating an HLD score of 33 for Appellant with two automatically qualifying conditions: impinging overbite with evidence of occlusal contact into the opposing soft tissue; and crowding of more than 10 mm. on either arch. The provider declined to submit a medical necessity narrative with the request. Exhibit 4 at 9-10. However, MassHealth denied Appellant's request not based on the HLD criteria, but because the service had been approved and paid for in the past, and it is a one-time benefit for members.

Appellant's guardian, her sister, testified that in 2018, Appellant was in the custody of her mother. MassHealth approved Appellant for braces based on a request made by a different orthodontist ("the original provider"). Appellant only had the top brackets placed in approximately 2018. However, Appellant's mother was in addiction at the time and did not follow up on Appellant's appointments. Appellant did not return for follow-up visits or adjustments and eventually the brackets fell off.

Appellant's mother passed away in [REDACTED]. In [REDACTED], Appellant's guardian obtained custody of Appellant and got her back into a regular routine of medical and dental appointments. At this time, Appellant had asked her sister if she could get her braces back on. Appellant's guardian took her to the new provider to start treatment again, as they had a bad experience with the original provider. The new provider did explain to Appellant and her guardian that the braces are only approved once, but Appellant's guardian sought to appeal now that Appellant is with a reliable caregiver and will stick with a routine of appointments.

Appellant's guardian provided documents from Appellant's initial visit in 2018 and a follow-up visit done in 2021 with the original provider. Exhibit 5. The MassHealth representative expressed surprise that Appellant's case would have been approved in 2018, at a time when Appellant was very young and still had lots of baby teeth in the mouth.

The MassHealth representative testified that MassHealth's records show that Appellant's original orthodontist billed MassHealth for dental code D8080 in February 2019. The original provider also billed MassHealth for routine adjustments, dental code 8670, in June 2019 and July 2021. Appellant's guardian testified that she brought Appellant to the appointment in 2021. The provider also submitted dental code D9941 for a mouthguard, which Appellant had not recalled receiving.

The MassHealth representative testified that her office would explore whether the original provider had fraudulently billed for any of Appellant's appointments. There was a possibility that if some of the financial reserve set aside for Appellant's treatment remained or could be recouped, Appellant may be able to have some appointments covered under continuation of care with a provider willing to take her as a transfer client. The MassHealth representative testified that dental schools will often take transfer clients.

The MassHealth representative recommended that Appellant submit a grievance against the original orthodontist if fraudulent billing practices were used. A grievance or complaint can be filed with DentaQuest by calling 1-833-479-0687, or by using the "MassHealth Member Dental Complaint Form."¹

The hearing record was held open and extended through March 17, 2025 to see if DentaQuest and the new provider could resolve the issue. Exhibit 6. On February 5, 2025, MassHealth's representative wrote that DentaQuest would void the original provider's claims and recoup the funds so the new provider can submit for full treatment. *Id.* However, the MassHealth representative was not able to clarify whether MassHealth would approve the new prior authorization (PA) request or reopen the old PA request from 2018. *Id.*

On February 28, 2025, after the hearing officer requested a status report, the MassHealth representative wrote that DentaQuest had decided not to approve the new PA request or reopen the old PA request, effectively upholding the denial under appeal. *Id.* The MassHealth representative testified that the original provider's records documented that Appellant had the braces placed and removed. DentaQuest, as benefit administrator, could not approve anything beyond the once in a lifetime benefit. *Id.* DentaQuest would not approve any additional dental code D8670 as a continuation of care. *Id.*

Appellant's guardian disputed the evidence, arguing that the braces were not removed by the provider but came off over time. Exhibit 7. Appellant's guardian offered photographs showing the stages of Appellant's braces. *Id.* Appellant's guardian questioned the original provider's documents, arguing that some of the dates of appointments did not make sense or did not happen as described.

¹Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/Member-Complaint-Form.pdf> (last visited March 19, 2025).

The MassHealth representative responded that the original provider billed MassHealth for banding and three quarterly adjustments. *Id.* When asked if there were discrepancies in the appointment records versus billing records, the MassHealth representative did not see a discrepancy, as it is common for items to be billed quarterly and not immediately after the appointment. Exhibit 9.

The original provider's billing and attendance records show that MassHealth paid the original provider \$1,298 (presumably for D8080) on March 14, 2019. Exhibit 8 at 24. MassHealth paid the original provider \$268 (presumably for D8670) on July 11, 2019 and September 22, 2021. *Id.* at 23. MassHealth paid the original provider \$288 (presumably for D8670) on February 9, 2022. *Id.* Attendance records confirmed that Appellant was banded on February 15, 2019. *Id.* at 2. MassHealth appointments are listed on March 30, 2019; July 14, 2021; and October 22, 2021. *Id.*

Findings of Fact

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

1. The appellant is a minor child under guardianship.
2. On February 15, 2019, MassHealth paid the appellant's original provider \$1,298 for Appellant to have her braces banded. Exhibit 8 at 2, 24.
3. MassHealth paid the appellant's original provider \$268 on July 11, 2019 and September 22, 2021 and \$288 on February 9, 2022. *Id.* at 23.
4. On or about November 9, 2024, Appellant's new provider submitted a new request for dental procedure code D8080, comprehensive orthodontic treatment, and D8670, periodic orthodontic treatment visits. The new request included an Orthodontics Prior Authorization Form, an HLD Form, photographs and X-rays. Exhibit 4.
5. The provider submitted documents indicating an HLD score of 33 for Appellant with two automatically qualifying conditions: impinging overbite with evidence of occlusal contact into the opposing soft tissue; and crowding of more than 10 mm. on either arch. The provider declined to submit a medical necessity narrative with the request. Exhibit 4 at 9-10.
6. On November 12, 2024, MassHealth denied Appellant's prior authorization request and Appellant timely appealed the denial to the Board of Hearings. Exhibits 1 and 2.

Analysis and Conclusions of Law

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.² Specifically, 130 CMR 420.431(C)(3) provides in pertinent part (emphasis added):

(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 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.

² The Dental Manual is available in MassHealth's Provider Library, on its website.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-days) basis for ongoing orthodontic maintenance and treatment beginning after the initial placement, and insertion of the orthodontic fixed and removable appliances. **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 (5) visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

(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.

(7) Orthodontic Terminations. The MassHealth agency requires providers to make all efforts to complete the active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number.

The MassHealth Dental Program Office Reference Manual (ORM) contains information for providers in submitting claims to MassHealth. 130 CMR 420.410(C). According to the ORM at Section 16.3,

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.

The undisputed evidence in this appeal is that Appellant was approved for comprehensive orthodontic treatment at some point, but no later than February 15, 2019. Appellant disputed whether some of the following treatment visits occurred, but the fact that Appellant did receive braces that MassHealth paid for on February 15, 2019 is not in dispute.

Appellant's guardian was willing to accept approval of some of the post-banding treatment visits under code D8670 as relief in this appeal. However, under 130 CMR 420.431(C)(4), Appellant would be eligible for resuming care unless the PA time limit had expired. According to ORM Section 16.3, the initial PA approval expires 36 months from the date of authorization. Here, that date would be February 15, 2022. Although Appellant's circumstances are sympathetic, the regulations do not offer the relief sought by Appellant in this appeal, filed almost three years past the PA expiration date.

Accordingly, the appeal is denied. If Appellant's guardian has evidence that MassHealth was fraudulently billed by the original provider for appointments Appellant did not attend, Appellant is encouraged to file the grievance as described above.

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.

Cynthia Kopka
Hearing Officer
Board of Hearings

MassHealth Representative: DentaQuest 1, MA