

**Office of Medicaid  
BOARD OF HEARINGS**

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2506811
<b>Decision Date:</b>	06/05/2025	<b>Hearing Date:</b>	05/29/2025
<b>Hearing Officer:</b>	Sharon Dehmand		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Benjamin Gamm, BeneCare  
Loan Ngo, Administrator, BeneCare

**Interpreter:**



*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>	DENIED	<b>Issue:</b>	Dental Services; Orthodontic Services
<b>Decision Date:</b>	06/05/2025	<b>Hearing Date:</b>	05/29/2025
<b>MassHealth's Rep.:</b>	Dr. Benjamin Gamm Loan Ngo	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Remote	<b>Aid Pending:</b>	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 March 18, 2025, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment. See 130 CMR 420.431 and Exhibit 1. The appellant filed this appeal in a timely manner on April 30, 2025. See 130 CMR 610.015(B) and Exhibit 2. Denial of a request for prior authorization is a valid basis for appeal to the Board of Hearings. See 130 CMR 610.032.

## Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment.

## Issue

Whether MassHealth was correct in determining that the appellant is ineligible for comprehensive orthodontic treatment. See 130 CMR 420.431(C),

## Summary of Evidence

MassHealth was represented by a licensed orthodontist and an administrator from BeneCare, the MassHealth dental contractor. The appellant appeared virtually with his parents and a nurse advocate and verified his identity. The following is a summary of the testimony and evidence provided at the hearing:

The appellant's orthodontic provider ("the provider") submitted a prior authorization request for comprehensive orthodontic treatment to BeneCare on behalf of the appellant on March 10, 2025. This request included the appellant's X-rays, photographs, a completed MassHealth Handicapping Labio-Lingual Deviations (HLD) Form, and a narrative regarding the appellant's medical condition. The request was denied on March 18, 2025, because the appellant exceeds the age limit allowed by MassHealth regulations. The MassHealth orthodontic consultant reported that, but for the appellant's age, his malocclusion is severe enough to qualify for coverage of treatment. He added that he confirmed with MassHealth that no exception to the age limit exclusion can be made.

The appellant's parents submitted evidence from the appellant's providers indicating that the appellant has extenuating medical circumstances that made treatment prior to the age of 21 impossible. The appellant's parents and a registered nurse assisting the family testified that the appellant had to go through a comprehensive treatment plan before he would be ready for orthodontia. They said that the appellant has lost considerable amount of weight because he has been placed on liquid diet due to his bite. They argued that orthodontic treatment is medically necessary. In support of their position, they submitted a letter from Boston Children's Hospital stating in relevant part the following:

...[The appellant]... was born with [REDACTED]. This is a genetic disorder characterized by the premature fusion of certain skull bones....Dental crossbite is common due to the small upper jaw and teeth are often misplaced or impacted. A retrusive midface leads to severe negative overjet. All of these problems are present for [the appellant].

Due to the aberrant nature of the jaw growth and its relation to overall growth, we have been unable to commence treatment until [the appellant] reached skeletal maturity.

See Exhibit 5, p. 5; Exhibit 6, p. 9.

## Findings of Fact

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

1. The appellant is an adult over the age of 21. (Testimony and Exhibit 4).
2. On March 10, 2025, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth. (Testimony and Exhibit 5).
3. The appellant's provider found two auto-qualifying conditions, and did allege and provide a medical necessity narrative. (Testimony, Exhibit 5, and Exhibit 6).
4. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion and the member is younger than 21 years of age. (Testimony).
5. On March 18, 2025, MassHealth notified the appellant that the prior authorization request had been denied because the appellant is over the age of 21. (Exhibit 1).
6. On April 30, 2025, the appellant filed a timely appeal of the denial. (Exhibit 2).
7. A fair hearing was conducted on May 29, 2025. (Exhibit 3).
8. The appellant was born with Apert syndrome. He was unable to receive comprehensive orthodontic treatment until recently. (Testimony, Exhibit 5, and Exhibit 6).
9. The appellant's malocclusion is severe enough to qualify for coverage of treatment, but for his age.

## **Analysis and Conclusions of Law**

At the outset it should be noted that MassHealth pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. See 130 CMR 420.410(A)(1). A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to MassHealth.

See 130 CMR 450.204(A).

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 within the MassHealth *Dental Manual*. See 130 CMR 420.421(A). The MassHealth agency pays for dental services with codes listed in Subchapter 6 of the *Dental Manual*, in accordance with the service descriptions and limitations described in 130 CMR 420.422 through 420.456 when medically necessary. See id.

In accordance with 130 CMR 420.431(A), the MassHealth agency pays for orthodontic treatment, subject to prior authorization, when the service is deemed medically necessary and service descriptions and limitations as described in 130 CMR 420.431.

Here, there is no dispute that the dental procedure is medically necessary as testified to by the MassHealth orthodontist. However, medical necessity, in and of itself, is not enough when it comes to dental and orthodontic treatment.

Regarding orthodontic treatment, 130 CMR 420.431 states, in relevant parts, as follows:

(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**.

(B) Definitions.

...

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(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 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 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.**

(Emphasis added).

Additionally, Appendix D of the *Dental Manual* specifically sets age limit as under 21 for dental codes covering comprehensive orthodontic services. See *Dental Manual* at 6-24, 6-25. As such, both the regulations and medical guidelines are unwavering when it comes to the age limitation.

Here, there is no dispute that the appellant qualifies clinically for orthodontic treatment as testified to by the MassHealth orthodontic consultant and supported by submitted medical records. However, there is no exception to the age limit in the regulations or the *Dental Manual*. The appellant's representative argued that the Board of Hearings should consider the appellant's circumstances and perhaps waive the age limit. While the appellant has submitted supporting documents regarding the medical rationale behind the delay in treatment, the regulations do not allow a hearing officer to consider an appellant's individual circumstances. A hearing officer must render a decision in accordance with the law. See 130 CMR 610.082(C).

According to the regulations, MassHealth only covers orthodontic treatment before a member turns 21 years of age. Therefore, I do not possess the authority to disregard these legislatively enacted regulations. As such, MassHealth was correct to deny the appellant's request for prior authorization for comprehensive orthodontic treatment.

For the foregoing reasons, this appeal is DENIED.

## 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.

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Sharon Dehmand, Esq.  
Hearing Officer  
Board of Hearings



MassHealth Representative: BeneCare, Attn: Jessica Lusignan