

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



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| Appeal Decision: | Approved | Appeal Number: | 2511300 |
| Decision Date: | 10/28/2025 | Hearing Date: | September 22, 2025 |
| Hearing Officer: | Brook Padgett | | |

Appellant Representative:

 Mother

MassHealth Representative:

Dr. Benjamin Gamm, BeneCare



*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

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| Appeal Decision: | Approved | Issue: | Prior Authorization Orthodontics 130 CMR 420.410 |
| Decision Date: | 10/28/2025 | Hearing Date: | September 22, 2025 |
| MassHealth Rep.: | Dr. Gamm, BeneCare | Appellant Rep.: | Mother |
| 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

The appellant received a notice dated June 16, 2025 stating MassHealth has denied your request for full orthodontic treatment. (130 CMR 420.431(E)(1); Exhibit 1). The appellant filed this timely appeal on July 16, 2025. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for full orthodontic treatment.

Issue

Is the appellant eligible for MassHealth payment for full orthodontic treatment?

Summary of Evidence

MassHealth was represented by a licensed orthodontist consultant from BeneCare the contractor that makes the dental decisions for MassHealth. The consultant indicated that the appellant, a minor child, was requesting prior authorization for full orthodontic treatment. The consultant stated that coverage for comprehensive orthodontic treatment is authorized by MassHealth only when there is evidence of a severe and handicapping malocclusion. MassHealth testified that the appellant's request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was then applied to a standardized Handicapping Labio-Lingual Deviations Form (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. MassHealth testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score representing the degree to which a case deviates from normal alignment and occlusion. A severe and handicapping malocclusion typically reflects a score of 22 and above. MassHealth testified that according to the prior authorization request, the appellant's dental provider reported a HLD Index score of 32 with an auto-qualifier of an impinging overbite. The consultant further stated that two other orthodontists reviewed the submission and one calculated a score of 16 and the other 15. The BeneCare consultant stated his review of the submissions resulted in a score of 22 (overjet 4, overbite 6, 2 ectopic teeth 6 and labiolingual 6). MassHealth submitted into evidence appellant's dental history and claim form, Orthodontics Prior Authorization form, HLD form, oral photographs and BeneCare Determination. (Exhibit 4).

The appellant did not accompany his mother to the hearing. The appellant's mother testified the appellant had already begun orthodontic treatment and the orthodontists mounted his braces in July.

MassHealth responded that the orthodontic care requires prior authorization before installation of the braces unless there is evidence that the braces were medically necessary and could not wait for approval. The mother stated they put the braces on because the provider advised her to start treatment and seek approval afterward. The mother testified that she cannot afford to pay the monthly payments for the appellant's braces.

Findings of Fact

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

1. On June 13, 2025, the appellant, through his orthodontic provider, requested prior authorization for MassHealth payment for full orthodontic treatment. (Exhibit 4).
2. On June 16, 2025, MassHealth denied the appellant's prior authorization request. (Exhibit 1).

3. MassHealth employs a system of comparative measurements known as the HLD index as a determinant of a severe and handicapping malocclusion. (Exhibit 4).
4. The treating provider reported an HLD score of 32 and claimed an impinging overbite auto-qualifier. (Exhibit 1).
5. Two reviewing orthodontists calculated HLD scores of 16 and 15 from the same submission. (Exhibit 4).
6. The BeneCare orthodontist consultant, applying the HLD methodology to the photographic and written record, determined a HLD score of 22. (Testimony).
7. The appellant began orthodontic treatment in July 2025, before receiving prior authorization of the treatment from MassHealth. (Testimony).

Analysis and Conclusions of Law

The MassHealth agency pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process (130 CMR 420.410(A)(1)). Services requiring prior authorization are identified in Subchapter 6 of the Dental Manual, and may also be identified in billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances (130 CMR 420.410(A)(2)). Orthodontic services require prior authorization (Subchapter 6 of the Dental Manual). Generally, dental providers must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency (130 CMR 420.410(A)(3)). The regulations set forth an exception to this general rule - a provider need not request prior authorization before providing a service if, among other requirements, the need for the service is discovered while the provider is performing another procedure.¹ That exception does not apply to the facts here.

Here, there is no dispute that the appellant meets the clinical eligibility requirements for approval of comprehensive orthodontic treatment. Both parties have determined that the appellant's HLD score is 22 points, and that he has a severe and handicapping malocclusion. The issue on appeal, then, is not whether the requested services are medically necessary. The issue is whether the provider's placement of braces after he requested prior authorization, but prior to the conclusion of the appeal process initiated after MassHealth denied the prior authorization request,

¹ Per 130 CMR 420.410(A)(3), "[t]he MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the MassHealth agency (a) the treatment was medically necessary; (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and (c) it would not be clinically appropriate to delay the provision of the service.

precludes approval. Current case law suggests that the timing of events in this case would not alone preclude approval of the prior authorization request (see *Shaw v. Secretary of the Executive Office of Health & Human Services, et al* (71 Mass. Ct. App. 218 (2008))).

In *Shaw v. Secretary of the Executive Office of Health and Human Services*, decided on February 19, 2008, the Massachusetts Appeals Court considered whether MassHealth could pay for a surgical procedure performed after prior authorization had been denied but pending an appeal on that denial. The Court determined that the prior approval regulation² is “principally . . . concerned with the medical necessity of a request as the controlling prerequisite for payment of services for certain procedures not otherwise covered by MassHealth.” The decision goes on to state as follows: “Recognizing that the request in this case was filed prior to the provision of the services, and still is pending, it cannot be considered a ‘retroactive request.’” A later decision, if favorable to the plaintiff on appeal, although not an authorization prior to the services, nonetheless meets the overarching requirement of the regulation that the determination of medical necessity be a prerequisite for payment. This interpretation harmonizes the regulation’s requirements with its principal purpose” (71 Mass. App. Ct. 218, 222 (2008)).

In this case, as in *Shaw*, the appellant filed his initial prior authorization request before his braces were installed. In light of the ruling in *Shaw* and the analogous circumstances here, MassHealth cannot deny payment on the sole basis that this is a “retroactive request.” As noted above, there is no dispute that the appellant has demonstrated that, with an HLD score of 22 points, full orthodontic treatment is medically necessary. I find that the appellant has provided sufficient information to meet the medical necessity requirement for full orthodontic treatment, and this appeal is APPROVED.

Order for MassHealth

Adjust the prior authorization decision to approve full orthodontic treatment.

² The *Shaw* case involved interpretation of 130 CMR 433.408(A)(1) and (2), the prior authorization regulation for physician services. The relevant portion of the prior authorization regulation for dental services, 130 CMR 420.410(A), is worded similarly.

Implementation of this Decision

If this decision is not implemented within 30 days after the date hereon, you should contact BeneCare. If you experience further 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.

Brook Padgett
Hearing Officer
Board of Hearings

cc: MassHealth Representative: BeneCare