

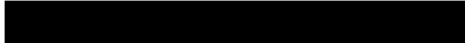
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



| | | | |
|-------------------------|--------------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2155078 |
| Decision Date: | 10/13/2021 | Hearing Date: | 09/01/2021 |
| Hearing Officer: | Rebecca Brochstein | Record Closed: | 09/22/2021 |

Appearances for Appellant:



Appearances for MassHealth:

Dr. Harold Kaplan



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

| | | | |
|--------------------------|-------------------------------|------------------------|---------------------------------|
| Appeal Decision: | Denied | Issue: | Prior Approval for Orthodonture |
| Decision Date: | 10/13/2021 | Hearing Date: | 09/01/2021 |
| MassHealth Rep.: | Dr. Harold Kaplan | Appellant Rep.: | Pro Se |
| Hearing Location: | Board of Hearings (Remote) | | |

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated June 1, 2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on June 25, 2021 (130 CMR 610.015(B); Exhibit 2). The appeal was dismissed on July 14, 2021, for failure to submit a copy of the MassHealth notice (Exhibit 3). The appellant thereafter provided the necessary documentation and the Board of Hearings vacated the dismissal. After hearing on September 1, the record was held open until September 22 for the appellant to submit additional information (Exhibits 7-9). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on May 27, 2021. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.¹ The provider's HLD Form indicates a total score of 18, as follows:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|--|-----------------------|---------------------------------------|----------------|
| Overjet in mm | 3 | 1 | 3 |
| Overbite in mm | 5 | 1 | 5 |
| Mandibular Protrusion in mm | 0 | 5 | 0 |
| Open Bite in mm | 0 | 4 | 0 |
| Ectopic Eruption (# of teeth, excluding third molars) | 0 | 3 | 0 |
| Anterior Crowding ² | Maxilla: Mandible: | Flat score of 5 for each ³ | 5 |
| Labio-Lingual Spread, in mm (anterior spacing) | 5 | 1 | 5 |
| Posterior Unilateral Crossbite | No | Flat score of 4 | 0 |
| Posterior impactions or congenitally missing posterior teeth | 0 | 3 | 0 |
| Total HLD Score | | | 18 |

Though the score is below the required threshold of 22, the provider noted that the appellant has a deep impinging overbite. A deep impinging overbite results in automatic approval under the HLD guidelines. See Exhibit 4.

Dr. Kaplan testified that when DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15. The

¹ The form also includes space for providers to indicate whether, regardless of score, a patient has one of the seven conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case alleged the presence of an auto-qualifying condition but did not complete a medical necessity narrative. See Exhibit 4.

² The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores.

³ The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

DentaQuest HLD Form reflects the following scores:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|--|-----------------------------|--------------------------|----------------|
| Overjet in mm | 2 | 1 | 2 |
| Overbite in mm | 5 | 1 | 5 |
| Mandibular Protrusion in mm | 5 | 5 | 5 |
| Open Bite in mm | 0 | 4 | 0 |
| Ectopic Eruption (# of teeth, excluding third molars) | 0 | 3 | 0 |
| Anterior Crowding | Maxilla: No Mandible: No | Flat score of 5 for each | 0 |
| Labio-Lingual Spread, in mm (anterior spacing) | 3 | 1 | 3 |
| Posterior Unilateral Crossbite | No | Flat score of 4 | 0 |
| Posterior impactions or congenitally missing posterior teeth | 0 | 3 | 0 |
| Total HLD Score | | | 15 |

Because it found an HLD score below the threshold of 22 – and also found no evidence of a deep impinging overbite – MassHealth denied the appellant’s prior authorization request on June 1, 2021. See Exhibit 1.

At hearing, Dr. Kaplan testified that he carefully examined the photographs and X-rays that were submitted by the provider and came up with his own HLD score of 17. His scoring was as follows:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|--|-----------------------------|--------------------------|----------------|
| Overjet in mm | 3 | 1 | 3 |
| Overbite in mm | 6 | 1 | 6 |
| Mandibular Protrusion in mm | 5 | 5 | 5 |
| Open Bite in mm | 0 | 4 | 0 |
| Ectopic Eruption (# of teeth, excluding third molars) | 0 | 3 | 0 |
| Anterior Crowding | Maxilla: No Mandible: No | Flat score of 5 for each | 0 |
| Labio-Lingual Spread, in mm (anterior spacing) | 3 | 1 | 3 |
| Posterior Unilateral Crossbite | No | Flat score of 4 | 0 |
| Posterior impactions or congenitally missing posterior teeth | 0 | 3 | 0 |
| Total HLD Score | | | 17 |

He stated that because he and the other orthodontists each found the appellant's HLD score is below the threshold of 22, he could not reverse the denial of the prior authorization request on the basis of the point total. Dr. Kaplan further testified that there is no evidence that the appellant has a deep impinging overbite, as the provider reported. He noted that the HLD index requires a showing of "severe soft tissue damage (ulcerations, tissue tears, more than indentations)" in order to find a deep impinging overbite. See Exhibit 4. He pointed out that while the appellant has a deep bite, his gum tissue appears very healthy and reflects no such damage. Accordingly, he does not have a deep impinging overbite as defined in the MassHealth guidelines.

The appellant appeared telephonically and testified on his own behalf. He testified that he is seeking orthodontic coverage not just because of his overbite but because of an asymmetry in his jaw. He stated that he consulted with a maxillofacial surgeon who advised that braces will be necessary for him to align his bite, as his ability to chew, eat, and speak are also affected by his jaw problem.⁴ In response, Dr. Kaplan stated that the appellant would need to submit documentation from his medical provider to explain the medical necessity of the orthodontic treatment.

The record was held open for the appellant to submit further documentation from his medical provider. The following letter was submitted by Dr. Mehra, the Chair of the Boston University Medical Center Department of Oral and Maxillofacial Surgery:

I had the opportunity to initially evaluate [appellant] in my office at Boston Medical Center on April 20, 2021. [Appellant] has some mild facial asymmetry along with some TMJ arthralgia and myofascial pain with some headaches. I discussed various treatment options ranging from no treatment, non-surgical orthodontics only, TMJ non-surgical conservative therapy, TMJ surgical treatment to comprehensive orthodontic and orthognathic surgical treatment with him.

It is my understanding that he is seeking care from an experienced orthodontist and contemplating orthognathic surgery for correction of his facial asymmetry. As part of this jaw surgery treatment, he will require both presurgical and postsurgical orthodontic

⁴ The appellant submitted a letter along with his request for hearing which offers further details:

I am writing this message in request for a fair hearing for my recent denial of coverage for braces. I want to note that I am seeking braces coverage from a medical standpoint and as mentioned in the letter sent, I find myself applicable to condition 2: a deformity in the bone growth of the head or face, as well as condition 7 which indicates top or bottom teeth being too far forward and not appropriately aligning. I am requesting that you view the situation as it is and not overlook the severity of my case. I have consulted with a maxillofacial surgeon which specializes in jaw deformities, and he has advised me to seek coverage for braces by an orthodontist so that I am able to correct my overbite and my popping/clicking deformed jaw in conjunction. I am unable to correct my deformity without first being granted coverage for braces to realign my overbite. In light of this information, please reconsider your decision and provide me with the needed coverage to correct my deformity, which not only affects my ability to eat properly, but also hinders my ability to coherently speak. Thank you in advance.

treatment and support. (Exhibit 8)

After reviewing the appellant's submission, Dr. Kaplan responded as follows:

After reading the medical necessity letter from the oral surgeon, I still must uphold [MassHealth's] decision of denial of orthodontic treatment. The oral surgeon stated that there were multiple treatment options for the appellant besides orthognathic surgery (one option was even no treatment).

The HLD scores for [appellant] were:

DentaQuest = 15

[Provider] = 18

My HLD = 17

I also did not see a deep impinging overbite. Therefore I must uphold MassHealth's denial of orthodontic treatment. (Exhibit 9)

Findings of Fact

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

1. On May 27, 2021, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 18. The provider also indicated that the appellant has a deep impinging overbite, which would result in automatic approval under the HLD guidelines.
3. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15. The consultant found no evidence of a deep impinging overbite.
4. On June 1, 2021, MassHealth notified the appellant that the prior authorization request had been denied.
5. On June 25, 2021, the appellant filed a timely appeal of the denial.
6. The Board of Hearings initially dismissed the appeal for failure to provide a copy of the notice on appeal. The appellant subsequently provided the necessary documentation and the Board of Hearings vacated the dismissal.
7. In preparation for hearing on September 1, 2021, MassHealth orthodontic consultant reviewed the provider's paperwork, finding an HLD score of 17. He found no evidence of a deep impinging overbite.

8. The record was held open after hearing for the appellant to submit supplemental documentation. He submitted a letter from a maxillofacial surgeon at Boston University Medical Center.
9. The appellant's HLD score is below the threshold score of 22.
10. A deep impinging overbite is present when the lower incisors are destroying the soft tissue of the palate. It requires a showing of severe soft tissue damage, such as ulcerations or tissue tears.
11. There is no evidence of a deep impinging overbite.
12. The appellant does not have any of the other conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm).
13. The appellant has not established that the service is otherwise medically necessary based on a severe deviation affecting the patient's mouth and/or underlying dentofacial structures; a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion; a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion; a diagnosed speech or language pathology caused by the patient's malocclusion; or a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

Analysis and Conclusions of Law

130 CMR 420.431(C) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime 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*.

Appendix D of the Dental Manual is the "MassHealth Handicapping Labio-Lingual Deviations Index" (HLD), which is described as a quantitative, objective method for measuring PA requests for comprehensive orthodontic treatment. The HLD allows for the identification of certain auto-qualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion.

MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, in two other circumstances: First, MassHealth will approve a request if there is

evidence of one or more auto-qualifying conditions: a cleft palate, severe maxillary anterior crowding, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm. Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion;
- A diagnosed speech or language pathology caused by the patient's malocclusion; or
- A condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider's justification of medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must:

- clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g., general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider found an overall HLD score of only 18, but reported finding a deep impinging overbite. After reviewing the provider's submission, MassHealth found no

deep impinging overbite, and calculated an HLD score of 15. Upon review of the prior authorization documents, a different orthodontic consultant for MassHealth determined the HLD score was 17, also finding no deep impinging overbite.

There is no dispute that the appellant's HLD score is below the threshold qualifying score of 22. I also agree with MassHealth that, contrary to the provider's HLD findings, the appellant does not have a deep impinging overbite. According to the HLD Index, a deep impinging overbite is present when there is severe soft tissue damage, such as ulcerations or tissue tears. See Exhibit 4. There is no evidence that this is occurring in the appellant's case. Nor is there evidence that he has any of the other conditions that result in automatic approval without regard for the HLD numerical score (i.e., cleft palate, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm.).

The only remaining question is whether the appellant qualifies for coverage because treatment is otherwise medically necessary. Even if the appellant does not meet the scoring guidelines or have any of the autoqualifying conditions, the appellant may establish that comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate one of a number of conditions. Among the conditions listed in the guidelines is "a severe deviation affecting the patient's mouth and/or underlying dentofacial structures." The appellant contends that he has such a condition, and that orthodontic treatment is necessary as part of the treatment to correct it. However, the letter submitted by the provider at Boston Medical Center does not adequately support the allegation of medical necessity. The letter states that the appellant has "some mild facial asymmetry along with some TMJ arthralgia and myofascial pain with some headaches." As a threshold matter, this does not rise to the level of "a severe deviation" as described in the guidelines. Further, as Dr. Kaplan pointed out, the provider indicated in his letter that the appellant has a range of treatment choices, which include no intervention at all. This suggests that orthodontic treatment, which is described only as part of the most aggressive option, is not medically necessary. On the whole, the appellant has not established that comprehensive orthodontic treatment is medically necessary.

MassHealth was correct in determining that the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines. This appeal is therefore 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.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: DentaQuest