

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2155515
Decision Date:	10/15/2021	Hearing Date:	08/30/2021
Hearing Officer:	Casey Groff		

Appearance for Appellant:



Appearance for MassHealth:

Harold Kaplan, D.M.D.



*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:	Prior Approval for Orthodonture
Decision Date:	10/15/2021	Hearing Date:	08/30/2021
MassHealth's Rep.:	Harold Kaplan, DMD	Appellant's Rep.:	
Hearing Location:	Telephonic	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 June 25, 2021, MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment. See Exhibit 2; Exhibit 4, p. 3; 130 CMR 420.431. The Appellant, through her legal guardian/foster mother, filed a timely appeal with the Board of Hearings on July 19, 2021. See Exhibit 1; 130 CMR 610.015(B). Challenging a denial of a prior authorization request is a valid ground for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

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

Issue

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

Summary of Evidence

MassHealth was represented at the hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest. DentaQuest is a third-party contractor that administers and manages MassHealth's dental program. According to testimony and documentary evidence presented by MassHealth, Appellant is a minor child and MassHealth member. On June 23, 2021, Appellant's orthodontic provider submitted a Prior Authorization ("PA") request to DentaQuest, as MassHealth's agent, seeking comprehensive orthodontic treatment for the Appellant. See Exh. 4, p. 3. Dr. Kaplan testified that MassHealth only covers orthodontic treatment in cases involving severe, disfiguring, and handicapping malocclusions. MassHealth uses the Handicapping Labio-Lingual Deviations Index ("HLD Index") as a quantitative and objective method of determining the presence, absence, and degree of handicap. Id. at 8. MassHealth does not consider a condition to be "physically handicapping" unless the individual's HLD score is 22 points or higher. In addition, the HLD Index lists seven (7) "auto-qualifying" conditions which are considered so severe to render the condition physically handicapping. One of the conditions is having "severe maxillary anterior crowding greater than 8mm." Id.

In submitting the PA request, Appellant's provider included x-rays, photographs, and a completed HLD Index. See id. at 8-12. The provider did not submit any of the measurements on the Index to arrive at an HLD score. Instead, the provider indicated that the Appellant is eligible for orthodontic treatment because she has "severe maxillary anterior crowding (greater than 8mm)." Id. at 8. The provider did not submit a "medical necessity narrative" to further demonstrate the presence of a handicapping malocclusion. Id. at 9.

Upon review of the PA request, a DentaQuest consulting orthodontist determined that the Appellant had an HLD score of 20 – below that which is required for MassHealth to cover treatment. Additionally, the reviewing orthodontist determined that Appellant did not have severe maxillary anterior crowding greater than 8mm, or any of the other enumerated auto-qualifying conditions listed in the HLD Index. Id. at 13. Accordingly, on June 25, 2021, MassHealth denied Appellant's PA request for comprehensive orthodontic treatment.

Dr. Kaplan testified that prior to hearing, he re-reviewed the contents of the PA request, including the x-rays and photographs. Based on his review, he determined that Appellant had an overall HLD score of 16 (lower than what the initial DentaQuest reviewers found) and that she did not have any of the auto-qualifying conditions present at this time. Specifically, Dr. Kaplan took measurements to determine the extent of Appellant's maxillary anterior crowding and found less than 8mm. Dr. Kaplan testified that this was in part due to the fact Appellant's canines had not yet erupted and it was too early to arrive measurement needed to be determined "severe." Dr. Kaplan testified that once the canine's come in, she may qualify; however, MassHealth does not authorize treatment for anticipatory conditions; the condition must already be present. Absent an HLD score greater than 22 or the presence of an auto-qualifying condition, the Appellant does not have a "handicapping malocclusion" to obtain coverage for comprehensive orthodontic treatment. Dr. Kaplan stated that Appellant may be re-examined by MassHealth every six months. She has until the age of 21 to receive treatment.

Appellant's foster/pre-adoptive mother appeared at the hearing by telephone and testified on

behalf of Appellant. She testified that just by looking at the Appellant's mouth you can see it is overcrowded. The treating orthodontist is highly reputable, examined her in person, and determined that braces were necessary due to the extent of crowding. A determination made from an orthodontist who conducts an in-person examination is much more credible than when from someone reviewing a piece of paper. Appellant is entitled to MassHealth benefits as a foster child; she has no one else to pay for her. Although she can get re-examined, it does not make sense for MassHealth to wait for the condition to get worse before paying for treatment. She has MassHealth now and should be entitled to treatment she needs at this time- before it gets worse.

Findings of Fact

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

1. Appellant is a minor child and MassHealth member.
2. On June 23, 2021, Appellant's orthodontic provider submitted a PA request to DentaQuest, as MassHealth's agent, seeking comprehensive orthodontic treatment for the Appellant.
3. In submitting the PA request, Appellant's provider included x-rays, photographs, and a completed HLD Index which indicated that Appellant had "severe maxillary anterior crowding (greater than 8mm)"
4. The provider did not include an HLD score, "medical necessity narrative" or indicate the existence of any other qualifying conditions in the PA request.
5. Upon review of the PA request, a DentaQuest consulting orthodontist determined that Appellant had an HLD score of 20 and that Appellant did not have severe maxillary anterior crowding greater than 8mm, or any of the other enumerated auto-qualifying conditions listed in the HLD Index.
6. Accordingly, on June 25, 2021, MassHealth denied Appellant's PA request for comprehensive orthodontic treatment.
7. Appellant submitted a timely appeal of the PA denial with the Board of Hearings.
8. Prior to the scheduled hearing, a second DentaQuest orthodontist consultant re-reviewed the PA request, including the x-rays and photographs and determined that Appellant had an overall HLD score of 16 (lower than what the initial DentaQuest reviewers found) and that she did not have any of the auto-qualifying conditions present, including severe maxillary anterior crowding greater than 8mm.

Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, in relevant part, the following:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 ***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*.

See 130 CMR 420.431(C)(3).

Appendix D of the *Dental Manual* is the Authorization Form for Comprehensive Orthodontic Treatment and consists of the “Handicapping Labio-Lingual Deviations” (HLD) Index. The HLD is described as a quantitative, objective method for measuring malocclusion. See Exh. 4. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a severe and handicapping malocclusion. See *Dental Manual*, Appendix D. Additionally, MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of any of the following “auto-qualifying” conditions: cleft palate, severe maxillary anterior crowding greater than 8mm, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm. See id. The form explicitly states that MassHealth will authorize treatment only “for cases with verified auto-qualifiers or verified scores of 22 and above.” See id.

Alternatively, providers may seek comprehensive orthodontic treatment by submitting a “medical necessity narrative” that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.¹

¹ Under Appendix D of the *Dental Manual* the “medical necessity narrative” must further show that the treatment will correct or significantly ameliorate (i.) a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures; ii. a diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion; iii. a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion; iv. a diagnosed speech or language pathology caused by the patient’s malocclusion; or v. 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: (1) 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); (2) describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment; (3) state the specific diagnosis or other opinion of the patient’s condition furnished by the identified clinician(s); (4) document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made); (5) discuss any treatments for the patient’s condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and (6) provide any other relevant information from the clinician(s) that supports the requesting provider’s justification of the medical necessity of comprehensive

In this case, Appellant's provider did not offer an HLD score or provide a medical necessity narrative as a basis for requesting treatment. Rather the provider sought treatment by indicating that Appellant has severe maxillary anterior crowding greater than 8mm. Upon reviewing the PA request, MassHealth found that Appellant did not have maxillary anterior crowding greater than 8mm, nor did she have the presence of any other auto-qualifying condition. The MassHealth reviewer also calculated an HLD score of 20. As part of the fair hearing process, a different MassHealth orthodontic consultant – Dr. Kaplan - performed a subsequent review of Appellant's records. Dr. Kaplan affirmed the previous determination that Appellant did not have the requisite measurement of 8mm or greater for severe maxillary anterior crowding or the presence of any other auto-qualifying condition. Dr. Kaplan measured an HLD score of 16 – lower than the requisite score of 22.

As the treating provider did not submit an HLD score or identify any other qualifying condition, the only issue in dispute is whether MassHealth erred in its determination that Appellant did not have severe maxillary anterior crowding greater than 8mm. While Appellant's foster mother provided credible evidence indicating Appellant does indeed have crowding, as reported by the treating orthodontist and which she stated is "visually apparent" – the question on appeal is whether the crowding is so severe that it amounts to a "handicapping malocclusion." See 130 CMR 420.431(C)(3). According to Appendix D, the condition becomes "handicapping" when the overcrowding is "verified" to be greater than 8mm. See Exh. 4, p. 9. Appellant's treatment records, including photographs and x-rays were reviewed multiple times by two separate orthodontic consultants. In each instance, the reviewing orthodontists concurred that the maxillary anterior overcrowding did not reach the 8mm level. Without having verified the presence of an auto-qualifying condition, Appellant has not demonstrated that she meets the MassHealth criteria for approval of comprehensive orthodontic treatment. See 130 CMR 420.431(C)(3). MassHealth did not err in denying the requested services.

Appellant can have her provider submit a new PA request to MassHealth every six-months upon re-examination. It is also noted that effective October 15, 2021, MassHealth implemented updates to the criteria for orthodontic prior authorization, including changes and increases to the list of auto-qualifying conditions. See MassHealth Transmittal Letter DEN-111 (Oct. 2021). Because these updates did not take effect until October 15th this Decision is based on the contemporaneous MassHealth regulations and guidelines in effect at the time of the June 25, 2021 PA denial.

Based on the foregoing, this appeal is DENIED.

Order for MassHealth

None.

orthodontic treatment.

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.

Casey Groff
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA