

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | DENIED | Appeal Number: | 2176391 |
| Decision Date: | 10/13/2021 | Hearing Date: | 10/06/2021 |
| Hearing Officer: | Christopher Taffe | | |

Appearance for Appellant:



Appearance for MassHealth:

Harold Kaplan, DMD (Consultant for
DentaQuest, by Phone)



*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: | DENIED | Issue: | PA – Dental – Orthodontics |
| Decision Date: | 10/13/2021 | Hearing Date: | 10/06/2021 |
| MassHealth's Rep.: | H. Kaplan, DMD | Appellant's Rep.: | |
| Hearing Location: | HarborSouth Tower, Quincy | | |

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 July 7, 2021, MassHealth denied Appellant's request for prior authorization of full orthodontic treatment. See Exhibit 1; 130 CMR 420.431. A timely appeal was filed on Appellant's behalf with the Board of Hearings on July 30, 2021, but the faxed filing was cut off and no signature was received. See Exhibit 1; 130 CMR 610.015(B). On August 25, 2021, the Board of Hearings dismissed this appeal without prejudice, stating that the appeal was unable to proceed without proper authority. See Exhibit 2; 130 CMR 610.034 and 130 CMR 610.035. Appellant timely vacated this dismissal by filing proper written authority on August 27, 2021. See Exhibit 2; 130 CMR 610.048.

Challenging a denial of a MassHealth of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's request for approval of the prior authorization request for braces or full and comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct in determining that Appellant's bite or malocclusion did not qualify for approval of comprehensive orthodontic treatment at this time.

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by her mother. MassHealth was represented at hearing by Dr. Kaplan, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Kaplan testified that the MassHealth insurance does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the Appellant has imperfect teeth or that Appellant's family has been told by a dentist that the patient would generally need or benefit from braces. Instead to obtain approval, the bite or condition of the teeth must have a high amount of dental problems so that the bite falls into the group of malocclusions with the most severe issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form but did not fill out the scoring. Instead, the submission from Appellant's dental provider indicated that there was a claim for an automatic qualifying condition of an impacted anterior tooth. A specific cite on the orthodontic prior authorization form found in Exhibit 5, page 9, mentioned impacted canines and 2nd molars (teeth identified as "UR3, UL3, LR7, LL7"). (Canines are anterior teeth, but molars are not.) Appellant's provider did not submit a separate medical necessity narrative from an appropriate medical provider about a non-dental issue.

MassHealth testified that, on the HLD point scale, 22 points is indicative of the amount of severity needed for approval. Dr. Kaplan testified that during the initial denial and review of the materials, DentaQuest found a HLD score of 14. Dr. Kaplan stated that he took a second review for the hearing, and he found discrepancies with a HLD score of 10. Because there was no score at or over 22, he believed he had to uphold the denial of the PA request as the malocclusion was not severe enough at the present time. Dr. Kaplan also stated that based on review of the x-rays, it was premature to say that there were any impacted canines or anterior teeth, as the roots of the teeth indicated that they were not done growing or erupting. Dr. Kaplan thought the anterior teeth in question, the canines, would erupt within six months (from the hearing date) and, if they had not erupted in six months, then it may be more proper to conclude that they were impacted.

Appellant's dentist also wrote that the Appellant had "*late mixed to permanent dentition*" indicating that this Appellant's adult teeth were developing later, relative to peers of the same

age. See Exhibit 5, page 9.

Appellant's mother expressed disappointment over the scoring and denial. Appellant's mother did not have anything specific to say about the current impaction but stated that Appellant had had other teeth extracted in the past, both in the upper jaw and lower jaw, to make room for the permanent teeth. Appellant's mom also stated that she is a single mom with four kids and she cannot afford to pay for orthodontic treatment without help from MassHealth.

Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony and Exhibit 5)
2. There is no evidence of a HLD score of 22 or more points.
 - a. Appellant's provider submitted the request with no HLD.
 - b. DentaQuest, during the initial review leading to the denial notice, found an HLD score of 14 points.
 - c. At hearing, the DentaQuest representative testified that he found an HLD score of 10 points.
(Testimony and Exhibit 5)
3. There is insufficient evidence at this time of Appellant having any impacted anterior teeth. (Testimony and Exhibit 5)
4. There is no evidence of a claim for any other automatic qualifying condition, such as a cleft palate. (Testimony and Exhibit 5)
5. Appellant's orthodontic provider did not submit complete and submit separate documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Testimony and Exhibit 5).

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,¹

¹ 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions

covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. That regulation reads in relevant part as follows as to comprehensive orthodontic requests:

420.431: Service Descriptions and Limitations: Orthodontic Services

(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. ...

(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 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. ...*

(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 5. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In this case, Appellant’s dentist claimed one automatic qualifying condition. Specifically, the presence of impacted upper canines was claimed. However at hearing, the MassHealth Representative offered a sound explanation, consistent with the x-rays in the record at Exhibit 5, that it is too early to conclude that these teeth are impacted. Based on that, it appears that there is no current automatic qualifier.

Appellant’s orthodontist also did not submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces on medical grounds separate or more secondarily related to dental issues. See HLD form in Exhibit 5.

(including the HLD form), and service codes found in related subchapters and appendices.
See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on October 8, 2021).

That leaves only a need to review the HLD scores to see if Appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. In this case, the record is clear that none of the two reviewing dentists who completed an HLD review found a score of 22 or more points needed for approval. Appellant's orthodontist did not submit an HLD score for review, suggesting that he or she also found no evidence of a score of 22 or higher.

Appellant's arguments about affordability and how Appellant would benefit from the treatment unfortunately do not serve as a separate basis for approval at the current time. As discussed at hearing, even if Appellant was not approved by this decision, Appellant can be re-examined in six months per 130 CMR 420.431. If the impacted teeth have not yet erupted by then, that may be evidence of sufficient grounds to justify approval of a future prior authorization request.

For these reasons, I conclude that there is no basis to rescind or overrule the MassHealth decision at this time. 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.

Christopher Taffe
Hearing Officer
Board of Hearings

cc: DentaQuest