

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2176523
Decision Date:	10/13/2021	Hearing Date:	10/06/2021
Hearing Officer:	Christopher Taffe		

Appearance for Appellant:



Appearance for MassHealth:

Harold Kaplan, DMD, on behalf of
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

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 April 8, 2021, MassHealth denied Appellant's request for prior authorization of full orthodontic treatment. See Exhibit 1; 130 CMR 420.431. Appellant filed a timely appeal with the Board of Hearings on August 23, 2021. See Exhibit 1; 130 CMR 610.015(B).¹ 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.

¹ Appellant's filing contained a written statement from the Appellant's mother that the family never received any denial during the month of April, but that there was actual receipt of notice on some undetermined date in May 2021. As the usual 30-day time period from date of receipt of appealable action to file in 130 CMR 610.015(B) has been extended to 120 days for the duration of the federal COVID-19 emergency, this appeal is considered timely. See MassHealth Eligibility Operations Memo 20-14 (dated September 2021) (confirming 120-day period for timely request of hearings will continue to be extended until the federal state of emergency ends).

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 his 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 and run 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 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 enough issues or discrepancies that it 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 and arrived at a score of 15. Appellant's dental provider's submission did not indicate that there was a claim for an automatic qualifying condition such as a cleft palate, nor did Appellant's provider submit a separate medical necessity narrative from an appropriate medical provider in according with the instructions on the latter pages of the HLD form.

MassHealth testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that during the initial denial and review of the materials, DentaQuest found a HLD score of 19. Dr. Kaplan stated that he took a second review for the hearing, and he found discrepancies with a HLD score of 20. Because there was no score at or 22, he believed he had to uphold the denial of the PA request as the malocclusion was not severe enough at the present time.

Appellant's mother expressed disappointment over the scoring and denial, stating that her son's treating dentists have recommended that he will need braces, in part due to his overjet and overbite. She is a single mom with five kids and is worried about how this will affect her son long-term if he doesn't get this treatment.

At hearing, it was discussed that Appellant could be re-examined by an orthodontist every six months and submit a future request for MassHealth's consideration at that time to see if the bite worsened or if there were other grounds which could support a future MassHealth decision to approve this treatment.

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 3)
2. There is no evidence of a HLD score of 22 or more points.
 - a. Appellant's provider submitted the request with a HLD score of 15 points.
 - b. DentaQuest, during the initial review leading to the denial notice, found an HLD score of 19 points.
 - c. At hearing, the DentaQuest representative testified that he found an HLD score of 20 points.
(Testimony and Exhibit 3)
3. There is no evidence of an automatic qualifying condition such as a cleft palate, nor did Appellant's orthodontic provider 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 3)

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.,² covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

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

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. ...

² 130 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 (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).

(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 3. 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 did not indicate the presence of an automatic qualifier condition, nor did the orthodontist submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces.

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 three reviewing dentists who completed an HLD review, including the Appellant’s own orthodontic provider, found a score of 22 or more points needed for approval.

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.

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