

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2176672
Decision Date:	10/19/2021	Hearing Date:	10/13/2021
Hearing Officer:	Susan Burgess-Cox		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter



*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 Authorization
Decision Date:	10/19/2021	Hearing Date:	10/13/2021
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	████████
Hearing Location:	All Parties Appeared by Telephone	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 17, 2021, MassHealth denied appellant's prior authorization request for comprehensive orthodontic treatment. (Exhibit 1). The appellant filed a timely appeal on August 7, 2021 as MassHealth implemented new protocols to support public health efforts for both new MassHealth members and existing members that include providing individuals up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns. (130 CMR 610.015; Eligibility Op. Memo 20-09; Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

Whether MassHealth was correct in denying the appellant's prior authorization request for comprehensive orthodontic treatment.

Summary of Evidence

All parties appeared by telephone. The appellant submitted a prior authorization request for comprehensive orthodontic treatment. MassHealth denied this request as the appellant's condition did not rise to the level that would allow MassHealth to authorize coverage for treatment.

In determining whether a member will qualify for MassHealth coverage of orthodontic treatment, the agency uses the Handicapping Labio-Lingual Deviations Form (HLD). The HLD is a quantitative, objective method for measuring a malocclusion. The HLD provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. For MassHealth to approve prior authorization for treatment, the patient would have to have a handicapping malocclusion. Such patients need to have a HLD score of 22 or higher to meet that requirement. Additionally, individuals with cleft palate deformities, deep impinging overbites, anterior impaction or other auto-qualifying conditions are considered to have a handicapping malocclusion.

The appellant's provider gave her a score of 11. An orthodontist from DentaQuest, the agency that oversees the MassHealth Dental Program, reviewed the appellant's records and gave a score of 15. The MassHealth representative at hearing, a licensed orthodontist, reviewed the appellant's records and gave the appellant a score of 15. The MassHealth representative noted that all three orthodontists scored below the required 22 points and did not indicate any auto-qualifying condition so he could not make any adjustments to the original decision.

The appellant's mother testified that the appellant has a sibling who MassHealth authorized coverage for orthodontic treatment, so she felt that MassHealth should do the same for the appellant. The appellant's mother argued that the process was inconsistent and not fair as it appeared that MassHealth was making arbitrary decisions and did not have a baseline for the point system. The appellant's mother testified that her two children have the same dentist, both presented x-rays and one was denied and the other approved. She did not agree with the system and felt that MassHealth should have a neutral third party come to the hearing to review the matter at issue.

The MassHealth representative responded that it was his role to review the records and then present the facts and an agency decision at hearing. The MassHealth representative noted that the appellant would benefit from orthodontic treatment, but her condition did not rise to the level for MassHealth to pay for the treatment. The MassHealth representative testified that each individual is different, and one cannot compare one individual to another even if they are siblings. The MassHealth representative encouraged the appellant to continue to visit the orthodontist and should her condition change, MassHealth may authorize payment for the treatment.

Findings of Fact

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

1. The appellant requested prior authorization for comprehensive orthodontic treatment.
2. The appellant is under 21 years of age.
3. The appellant's orthodontist gave the appellant an HLD score of 11 and did not indicate any other type of handicapping malocclusion or medically-related need.
4. An orthodontist from DentaQuest, performing a review of the appellant's records gave a score of 15.
5. Reviewing the records submitted by the appellant's orthodontist, the MassHealth representative at hearing gave the appellant an HLD score of 15.
6. The appellant's provider did not submit a narrative that included a diagnosis, opinion, or expertise of a licensed clinician to demonstrate that orthodontic treatment is medically necessary.

Analysis and Conclusions of Law

MassHealth 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)). A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to MassHealth. (130 CMR 450.204(A)).

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)). The Dental Manual indicates that Orthodontic Treatment requires prior authorization. (MassHealth Dental Manual Subchapter 6).

Pursuant to 130 CMR 420.431(C)(3), MassHealth 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. MassHealth determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual. (130 CMR 420.431(C)(3)).

Appendix D of the MassHealth Dental Manual provides a copy of the Handicapping Labio-Lingual Deviations Form (HLD) which is a quantitative, objective method for measuring malocclusion. (MassHealth Dental Manual, Appendix D). 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 Dental Manual, Appendix D). Treatment will be authorized for cases with verified auto-qualifiers or verified scores of 22 and above. (MassHealth Dental Manual, Appendix D; 130 CMR 420.431(C)(3)). Auto-qualifiers include a cleft palate deformity, deep impinging overbite and anterior impaction. (MassHealth Dental Manual, Appendix D).

While the appellant may benefit from orthodontic treatment, the regulations clearly limit eligibility for such treatment to patients with handicapping malocclusions. (130 CMR 420.431(C)(3)). The MassHealth representative noted all three orthodontists scored below the required 22 points and did not note any auto-qualifying conditions. The appellant's mother did not present any

evidence to dispute the decision made by MassHealth only a statement that the appellant has a sibling that received coverage for orthodontic treatment and she did not believe the MassHealth representative at hearing was being fair or neutral.¹ As noted above, the MassHealth representative responded that each case is unique and the agency makes decisions based on the condition of the individual seeking coverage.

MassHealth allows providers to submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. (MassHealth Dental Manual, Appendix D). Providers must submit this narrative in cases where the patient does not have an auto-qualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. (MassHealth Dental Manual, Appendix D). The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. (MassHealth Dental Manual, Appendix D).

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:

- i. 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);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition

¹ The fair hearing process is one where dissatisfied applicants and members obtain an administrative determination of the appropriateness of certain actions or inactions by MassHealth. (130 CMR 610.012(A)). The hearing is conducted by an impartial hearing officer of the Board of Hearings. (130 CMR 610.012(C)). It is the role of the hearing officer to examine the facts, applicable law, regulations, policy memoranda and other circumstances of the appeal presented by the parties to determine the legality and appropriateness of MassHealth's action. It is not the role of the MassHealth representative to be fair and neutral. The role of the MassHealth representative is to present the case for the agency.

- furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
 - v. discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
 - vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment. (MassHealth Dental Manual, Appendix D).

The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. (MassHealth Dental Manual, Appendix D). If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). (MassHealth Dental Manual, Appendix D). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative. (MassHealth Dental Manual, Appendix D).

The appellant's orthodontist did not provide a narrative or records from another clinician to demonstrate that comprehensive orthodontic treatment was medically necessary. (130 CMR 420.410; 130 CMR 420.431(E); 130 CMR 450.204). The decision by MassHealth denying prior authorization for comprehensive orthodontic treatment was correct.

This appeal is denied.

If the appellant's dental condition should worsen or her orthodontist is able to provide the necessary documentation to demonstrate that the treatment is medically necessary, a new prior authorization request can be filed at that time.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA