

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	DENIED	Appeal Number:	2176826
Decision Date:	11/03/2021	Hearing Date:	10/18/2021
Hearing Officer:	Christopher Taffe		

Appearances for Appellant:



Appearance for MassHealth:

Harold Kaplan, DMD, on behalf of
DentaQuest Customer Service

Interpreter:



*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:	11/03/2021	Hearing Date:	10/18/2021
MassHealth's Rep.:	H. Kaplan, DMD	Appellant's Rep.:	
Hearing Location:	HarborSouth Tower, Quincy	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 August 9 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 27, 2021. See Exhibit 1; 130 CMR 610.015(B). 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 currently qualify for approval of comprehensive orthodontic treatment.

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his mother and father. 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.¹

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 the member and their 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 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 18. The submission from Appellant's orthodontic provider did not indicate a claim for an automatic qualifying condition such as a cleft palate, nor did Appellant's provider submit a separate medical necessity narrative from another appropriate medical provider in accordance 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 16. 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 above 22, Dr. Kaplan had to uphold the denial of the PA request as the malocclusion was not severe enough at the present time.

Appellant's parents expressed disappointment over the scoring and decision, stating that they believed he had a dental problem and needed orthodontics, and that he had trouble eating food such as rice with his current bite. In particular they thought his top teeth had greater issues, and that it did not appear as though there was enough space for any remaining permanent teeth to drop in.

Findings of Fact

¹ Due to the COVID-19 state of federal emergency, over 99% of all Fair Hearings conducted by the Board of Hearings since March 2020 have been scheduled and heard remotely by phone per 130 CMR 610.013(A)(2). There was no request prior to hearing of any exceptional circumstance warranting an in-person appeal. Accordingly, the Board of Hearings included an insert in the scheduling letter sent to the Appellant for this appeal, which stressed that parties should not appear in person. The Appellant's parents did not see that instruction and inadvertently appeared at the hearing site; they appeared and testified from a neighboring hearing room.

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 18 points.
 - b. DentaQuest, during the initial review leading to the denial notice, found an HLD score of 16 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. ...

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive

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 25, 2021).

*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 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.

It is noted that so long as Appellant remains a MassHealth member under the age of 21, the Appellant may be reexamined by a MassHealth orthodontic provider and make a new Prior Authorization request for future consideration. If the malocclusion worsens, the Appellant may be eligible for a different result and possible approval in the future.

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