

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: DENIED

Appeal Number: 2200900

Decision Date: 3/30/2022

Hearing Date: 03/09/2022

Hearing Officer: Christopher Taffe

Appearance for Appellant:



Appearance for MassHealth:

Carl Perlmutter, DMD, Consultant 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:	3/30/2022	Hearing Date:	03/09/2022
MassHealth's Rep.:	C. Perlmutter, 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 January 23, 2022, 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 February 7, 2022. 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] old MassHealth member who was represented at hearing by her mother. MassHealth was represented at hearing by Dr. Perlmutter, 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. Perlmutter 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 or handicapping 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.

MassHealth testified that, on the HLD point scale, 22 points is needed for approval. Dr. Perlmutter testified that he found a similar score to that of Appellant's treating orthodontist, but that his score was still below the 22. [The paperwork in Exhibit 3 shows DentaQuest did not score it, presumably because Appellant's dentist did not get to a total of 22 or more.]

Regardless of point total, it is also possible to qualify for orthodontic treatment if Appellant has a condition deemed an automatic qualifier. In this submission, Appellant's provider indicated the presence of an automatic qualifier; that condition was "*overcrowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars), includes the normal complement of teeth*". Dr. Perlmutter testified that Appellant certainly had crowding in both the upper (maxillary) and lower (mandibular) jaws, but that the crowding was approximately 5 to 6 mm in the more crowded jaw, which was the lower (mandibular) arch. Dr. Perlmutter indicated that he gave 10 points in the HLD scoring for crowding in both the upper and lower jaws, but one only needed to have crowding greater than 3.5 millimeters to get those 5 points for both jaws. Dr. Perlmutter also stated and pointed out that the Appellant patient had some sort of crown or temporary crown on the upper right central incisor (which the mother later indicated was due to some dental trauma or history). Dr. Perlmutter stated that this upper crown was likely contributing to some of the crowding issues in the upper jaw, and this was just a more general dentistry issue that would have to be addressed at some point beyond or in conjunction with orthodontia. Dr. Perlmutter also testified that the x-ray submitted showing the lateral (from the side) view of the head was a bit unclear and that if Appellant wanted to get reexamined in six months, he would encourage the family to work with the orthodontist to submit a more clear x-

ray which may show more information on the crowding. However, based on the materials available to him he did not see evidence close to 10 millimeters of crowding in either jaw, and he believed the more severe crowding was in the teeth of the lower jaw, and that it was approximately 5 to 6 millimeters collectively. The x-rays in exhibit 3 show that Appellant still has some baby dentition which need to fall out and be replaced by more permanent teeth.

Appellant's mother expressed disappointment in the decision, noting that this was her second Fair Hearing and that she had already been told to get reexamined. Appellant's mother also testified how she believed her daughter badly needed braces to improve her teeth, appearance, and bite, and that there were severe issues in the front part of the mouth which needed to be treated.

Findings of Fact

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

1. Appellant is currently a [REDACTED] old 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. Neither the initial DentaQuest review nor the review testified to by Dr. Perlmutter found evidence of 22 or more points. (Testimony and Exhibit 3)
3. Appellant's PA submission contained a claim that of an automatic qualifier, and the alleged qualifier was *"overcrowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars), includes the normal complement of teeth"*. (Testimony and Exhibit 3)
 - a. Appellant does not have 10 mm of collective crowding of teeth in either the upper jaw or the lower jaw. (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.,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 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 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.

This case did not involve or include a medical necessity letter. Here, Appellant’s dentist claimed that there was excessive crowding in a jaw, or the presence of an automatic qualifier. The pictures in Exhibit 3 reveal that the lower teeth have the most crowding, particularly in the area involving the lower teeth which are left of the center midline. However, MassHealth’s witness is an orthodontist who provided credible testimony indicating that while there was considerable crowding, it did not rise to the level of being close to 10 millimeters of collective crowding. Based on the overall testimony given at hearing, I find that opinion of the orthodontist present at hearing to be persuasive and plausible.

(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 March 28, 2022).

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, or how the family has already gone through this process once before, unfortunately does 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 as more adult dentition come in, the Appellant may be eligible for a different result and possible approval in the future. As discussed at hearing, it may be in Appellant's interest to have her submitting orthodontist submit more clear x-rays or pictures if he or she believes that the crowding or other conditions are more severe than what was found in this current appeal.

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