

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2202227
Decision Date:	6/14/2022	Hearing Date:	05/04/2022
Hearing Officer:	Scott Bernard		


Appearance for Appellant:
[Redacted] (mother) *via* telephone

Appearance for MassHealth:
Dr. Carl Perlmutter (DentaQuest) *via* telephone



*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:	Orthodontics
Decision Date:	6/14/2022	Hearing Date:	05/04/2022
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South		

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 March 4, 2022, denied the appellant's PA request because the submitted documentation did not support the medical necessity of comprehensive orthodontic treatment. (See 130 CMR 420.431 and Exhibit (Ex.) 4, pp. 3-5). The appellant filed this appeal in a timely manner on March 24, 2022. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying comprehensive orthodontic treatment.

Summary of Evidence

The MassHealth representative was a licensed orthodontist and stated the following in pertinent part. The appellant is an individual under the age of 21. (Ex. 1; Ex. 2; Ex. 4, pp. 1,3; Ex. 5; Ex. 7, pp. 3, 8). The MassHealth representative stated that MassHealth usually does not pay for braces. MassHealth will only do so if the member's bite is so bad that it is a physically handicapping situation. This means that the member's the teeth or jaws are in such a poor position that the member cannot chew to get nutrition and grow. The issue is how the member's bite works and not how the member's teeth look.

There are two ways to determine if the member's bite is sufficient handicapping. The first is to measure 10 different characteristics of the bite and if the measurement total 22 mm or greater the bite is sufficiently handicapping. The other way is to look to see if the member has one of eight other characteristics, any one of which would be sufficiently handicapping.

The appellant's orthodontist and MassHealth made the following determinations concerning the appellant's handicapping labio-lingual deviations (HLD):

	Treating Source	Initial MassHealth determination
Automatic Approval:		
Cleft Palate	No	No
Deep Impinging Overbite	No	No
Anterior Impactions	No	No
Severe Traumatic Deviations	No	No
Overjet Greater than 9 mm	No	No
Reverse Overjet Greater than 3.5 mm	No	No
Severe Maxillary Anterior Crowding Greater than 8 mm	No	No
Spacing of 10mm or more in either maxillary or mandibular arch (excluding 3 rd molars), includes normal complement in teeth	Yes	No
HLD Score		
Overjet in mm	4	3
Overbite in mm	3	3
Mandibular Protrusion in mm (x 5)	0	0
Open Bite in mm (x 4)	0	0
Ectopic Eruption (# of teeth x 3)	0	0
Anterior Crowding:	0	0
• Maxilla		
• Mandible		
Labio-Lingual Spread in mm	0	8
Posterior Unilateral Crossbite x 4	0	0
Posterior Impactions or Congenitally Missing Posterior Teeth x 3	0	0
Total HLD Score (Need 22 or Over)	7	14

(Ex. 7, pp. 10, 17).

The MassHealth representative stated that he reviewed the X-rays and photographs the appellant's orthodontist submitted. (Ex. 7, pp. 14-16). The MassHealth representative noted that both the appellant's orthodontist and the MassHealth orthodontist concluded that the appellant had an HLD score that was less than 22. The MassHealth representative stated that he agreed with both orthodontists that the appellant's HLD score did not exceed 22.

The MassHealth representative stated that the appellant's orthodontist also concluded, however, that the appellant had an auto-qualifying condition. The appellant's orthodontist concluded that the

appellant had “[s]pacing of 10mm or more in either maxillary or mandibular arch (excluding 3rd molars), includes normal complement in teeth”. (Ex. 7, p. 10). The initial MassHealth orthodontist concluded that the appellant did not have this or any other autoqualifying condition. (Ex. 7, p. 17). The MassHealth representative stated that he agreed with MassHealth’s conclusion. He stated that after carefully looking at the photographs and x-rays, he determined that the appellant had less than the 10 mm of total space (excluding wisdom teeth) required for this auto-qualifier. For that reason, he could not approve MassHealth payment for comprehensive orthodontic treatment and would not overturn the initial MassHealth determination. He also stated that although the spaces between teeth generally do not increase over time, MassHealth will pay for members under the age of 21 to visit the orthodontist and submit requests for braces every six months. According to the documentation, the appellant’s last orthodontic visit was on February 17, 2022 and for that reason, MassHealth will pay for another orthodontic visit no earlier than August 17, 2022. (See Ex. 7, p. 8).

The appellant's representative, who was his mother, testified that the provider told her that the appellant needed braces for preventive care. The provider told her that the amount of spacing between teeth, and the appellant’s overbite were severe enough to require braces. The appellant's representative was confused as to how the appellant’s orthodontist could be so incorrect. She asked if the appellant’s orthodontist submitted his measurement of the space. The MassHealth representative stated that he did not see anything that would indicate what the appellant’s orthodontist concluded, just that the appellant had more than 10 mm of space. The MassHealth representative again stated that the spacing is much less than that.

Findings of Fact

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

1. The MassHealth representative is a licensed orthodontist. (Testimony of the MassHealth representative).
2. The appellant is an individual under the age of 21. (Ex. 1; Ex. 2; Ex. 4, pp. 1,3; Ex. 5; Ex. 7, pp. 3, 8).
3. MassHealth usually does not pay for braces. (Testimony of the MassHealth representative).
4. MassHealth will only do so if the member’s bite is so bad that it is a physically handicapping situation. (Testimony of the MassHealth representative).
5. This means that the member’s the teeth and/or jaws are in such a poor position that the member cannot chew to get nutrition and grow. (Testimony of the MassHealth representative).
6. The issue is how the member’s bite works and not how the member’s teeth look. (Testimony of the MassHealth representative).
7. There are two ways to determine if the member’s bite is sufficient handicapping. (Testimony of the MassHealth representative).

8. The first is to measure 10 different characteristics of the bite and if the measurements total 22 mm or greater the bite is sufficiently handicapping. (Testimony of the MassHealth representative).
9. The other way is to look to see if the member has one of eight other characteristics, any one of which would be sufficiently handicapping. (Testimony of the MassHealth representative).
10. None of the orthodontists concluded that the appellant's HLD score met or exceeded 22. ((Ex. 7, pp. 10, 17; Testimony of the MassHealth representative).
11. The appellant's orthodontist asserted that the appellant had spacing of 10mm or more in either maxillary or mandibular arch (excluding 3rd molars). (Ex. 7, p. 10).
12. MassHealth's initial orthodontist stated the appellant did not have this or any other autoqualifying conditions. (Ex. 7, p. 17).
13. The MassHealth representative analyzed the photographs and x-rays and concluded that the appellant did not have any autoqualifying conditions. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

130 CMR 420.431(B)(3) defines comprehensive orthodontic treatment as follows:

Comprehensive Orthodontic Treatment. Comprehensive orthodontic treatment includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development. Comprehensive orthodontic treatment includes the transitional and adult dentition.

130 CMR 420.431(C)(3) describes the eligibility requirements for comprehensive orthodontic treatment, as follows:

(3) Comprehensive Orthodontics. The MassHealth agency 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. 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...

The MassHealth agency pays for the office visit, radiographs and a record fee of the preorthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive

orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion and any adjustments (treatment visits) occurring in the calendar month of insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three (3) calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches age 21...

Appendix D of the MassHealth Dental Manual is the Authorization Form for Comprehensive Orthodontic Treatment, MassHealth Handicapping Labio-Lingual Deviations Index, which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a severe and handicapping malocclusion. MassHealth also approves prior authorization requests for comprehensive orthodontic treatment when the member has one of the “auto qualifying” conditions described by MassHealth in the HLD Index. This includes “[s]pacing of 10mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth.” (See also MassHealth Dental Program Office Reference Guide § 3.7).

The record shows by the preponderance of the evidence that the appellant does not qualify for comprehensive orthodontic treatment. The three orthodontists involved in this case all agreed that the appellant’s HLD score did not exceed 22. The appellant’s orthodontist asserted the appellant had an autoqualifying condition. The MassHealth in its initial determination concluded that the appellant did not have any autoqualifying conditions. The MassHealth representative, who, again, is a licensed orthodontist, testified under oath that after carefully reviewing the x-rays and photographs he also concluded that the appellant did not have any of the auto-qualifying conditions. Given the MassHealth representative’s expertise, and the fact that he was under oath, this testimony must be given some amount of evidentiary weight.

For the above stated reasons, the 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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

DentaQuest 1, MA