

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2204488
Decision Date:	9/8/2022	Hearing Date:	07/25/2022
Hearing Officer:	Alexis Demirjian	Record Open to:	

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Dr. Harold Kaplan

Interpreter:
Nayeli



*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:	9/8/2022	Hearing Date:	07/25/2022
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Pro se
Hearing Location:	Quincy Harbor South 2	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 2, 2022 MassHealth informed the appellant that it denied a request for prior authorization of comprehensive orthodontic treatment (Exhibit 3). A timely appeal was filed on the appellant's behalf on June 14, 2022.¹ (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

¹ In MassHealth Eligibility Operations Memo (EOM) 20-09 dated 04/07/2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends;
 - All appeal hearings will be telephonic; and
 - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Issue

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment pursuant to 130 CMR 420.431(C)?

Summary of Evidence

The MassHealth orthodontic consultant, a licensed orthodontist from DentaQuest, testified that the appellant's provider requested prior authorization for comprehensive orthodontic treatment. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. He testified that the orthodontic provider submitted a prior authorization request on behalf of the appellant, who is under 21 years of age. The request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index (Exhibit 4).

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on May 31, 2022. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has an HLD score of 40, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	8	1	8
Overbite in mm	0	1	0
Mandibular Protrusion in mm	1	5	5
Open Bite in mm	2	4	8
Ectopic Eruption (# of teeth, excluding third molars)	2	3	6
Anterior Crowding	Maxilla: Mandible:	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	6	1	6
Posterior Unilateral Crossbite		Flat score of 4	4
Posterior Impactions or congenitally missing	1	3	3

posterior teeth (excluding 3 rd molars)			
Total HLD Score			40

Additionally, the appellant's orthodontist identified the automatic qualifying condition of anterior open bite. The appellant's orthodontist also included a medical necessity narrative, however he indicated that he was not submitting additional supporting documentation to support the claim that comprehensive orthodontic treatment was a medical necessity. No additional documentation was submitted in support of the claimed medical necessity and the appellant's orthodontist did not sign the attestation submitted with this submission.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	0	1	0
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	2	4	8
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	1	3	3
Total HLD Score			19

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22, no auto qualifier, and insufficient evidence to meet the criteria for medical necessity approval MassHealth denied the appellant's prior authorization request on June 2, 2022.

At hearing, the MassHealth orthodontist testified that the appellant has an HLD score of 19, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	0	1	0
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	2	4	8
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	1	3	3
Total HLD Score			19

The DentaQuest orthodontist testified that he reviewed the appellant's materials that were provided to MassHealth with the prior authorization request from her orthodontist. According to the photographs and X-rays, the DentaQuest orthodontist testified that his review confirmed MassHealth's determination and the appellant's HLD score did not reach the score of 22 necessary for a determination that of a severe and handicapping malocclusion. He further testified that there was no evidence that the appellant met the criteria to qualify for the auto qualifying condition of anterior open bite, nor was the medical necessity form sufficient to find that treatment fell under the medical necessity exception. The DentaQuest orthodontist testified that there was no information provided to show that a different result is warranted. As a result, he upheld MassHealth's denial of the request for comprehensive orthodontic services.

The appellant's appeared at the fair hearing telephonically and testified that she can only chew with her back teeth.

Findings of Fact

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

1. On May 31, 2022, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, calculated an HLD score of 40 points. (Exhibit 4).

3. The provider indicated that the appellant had an automatic qualifier, specifically an anterior open bite. (Exhibit 4).
4. The provider included a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19 points, with no automatic qualifying condition. (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or meets the criteria for an auto qualifying condition. (Testimony).
7. On June 2, 2022, MassHealth notified the appellant that the prior authorization request had been denied. (Exhibits 1 and 4).
8. On June 14, 2022, the appellant filed a timely appeal of the denial. (Exhibit 2).
9. At hearing on July 25, 2022, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found a HLD score of 19. (Testimony).
10. The appellant does not have an anterior open bite: 2mm or more; of 4 or more teeth per arch. (Testimony).
11. The appellant's HLD score is below 22.
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft lip, cleft palate, or other craniofacial anomalies, impinging overbite, impactions (excluding third molars) that are impeding eruption in the maxillary and mandibular arches, severe traumatic deviations: traumatic deviations refer to accidents impacting the face, jaws, and teeth rather than congenital deformity, overjet greater than 9mm, reverse overjet greater than 3.5mm, crowding or spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars), anterior or posterior crossbite of 3 or more teeth per arch, two or more congenitally missing teeth (excluding 3rd molars), or lateral or anterior (of incisors) open bite.) (Testimony).

Analysis and Conclusions of Law

130 CMR 420.431(C) states, in relevant part, as follows:

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 the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

Appendix D of the Dental Manual provides the “Handicapping Labio-Lingual Deviations Form” (HLD), 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 will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft lip, cleft palate, or other craniofacial anomalies, impinging overbite, impactions (excluding third molars) that are impeding eruption in the maxillary and mandibular arches, severe traumatic deviations: traumatic deviations refer to accidents impacting the face, jaws, and teeth rather than congenital deformity, overjet greater than 9mm, reverse overjet greater than 3.5mm, crowding or spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars), anterior or posterior crossbite of 3 or more teeth per arch, two or more congenitally missing teeth (excluding 3rd molars), or lateral or anterior (of incisors) open bite.

The appellant’s provider asserted that the appellant has a HLD score of 40 and an automatic qualifying condition of anterior open bite. After reviewing the provider’s submission, MassHealth found a HLD score of 19 and did not meet the criteria for any automatic qualifying condition. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found a HLD score of 19 and no evidence that the appellant fits the criteria for an automatic qualifying condition.

The main difference between the appellant’s provider’s score and that of the MassHealth orthodontist’s is the scoring of the overjet, mandibular protrusion, ectopic eruptions, and measurement of the labio-lingual spread. The MassHealth orthodontist testified that that the appellant does not have a mandibular protrusion nor is their evidence of posterior unilateral crossbite or ectopic eruptions, accordingly zero points may be scored for these conditions. Additionally, the MassHealth orthodontist testified that his measurements in the categories of overjet and labio-lingual spread were less than what the appellant’s provider scored. Thus, the appellant’s provider’s score must be reduced by 21 points.

Next, the MassHealth orthodontist verified that the appellant does not have the auto qualifying condition of an anterior open bite. The MassHealth orthodontist explained that Appendix D of the Dental Provider Manual provides that to qualify for the condition of anterior (of incisors) open bite, the appellant must have 4 or more fully erupted teeth per arch and ectopically erupted teeth are not included in that measurement. The documentary evidence shows that the appellant only has 2 teeth affected; therefore the appellant does not meet the criteria for this auto qualifying condition.

Dr. Kaplan, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His

measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative.

130 CMR 450.204, states that MassHealth agency does not pay a provider for services that are not medically necessary and may impose sanctions on a provider for providing or prescribing a service or for admitting a member to an inpatient facility where such service or admission is not medically necessary.

(A) 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 the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior-authorization request, to be available to the member through sources described in 130 CMR 450.317(C), 503.007: Potential Sources of Health Care, or 517.007: Utilization of Potential Benefits.

(B) Medically necessary services must be of a quality that meets professionally recognized standards of health care and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records, including medical records, available to the MassHealth agency upon request. (See 42 U.S.C. 1396a(a)(30) and 42 CFR 440.230 and 440.260.)

(C) A provider's opinion or clinical determination that a service is not medically necessary does not constitute an action by the MassHealth agency.

(D) Additional requirements about the medical necessity of MassHealth services are contained in other MassHealth regulations and medical necessity and coverage guidelines.

(E) Any regulatory or contractual exclusion from payment of experimental or unproven services refers to any service for which there is insufficient authoritative evidence that such service is reasonably calculated to have the effect described in 130 CMR 450.204(A)(1)

Appendix D of Dental Manual provides that:

Providers may 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. 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.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. 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 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.

The medical necessity narrative submitted by the appellant's orthodontist was faulty and can not be reasonably relied upon to determine that the orthodontic treatment is medically necessary consistent with 130 CMR 450.204. The appellant's orthodontist submitted a boilerplate form that did not include the nature and extent of the clinician's involvement with the patient, including dates of treatment, nor did it state a specific diagnosis or discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician. See Exhibit 4, pg. 8. Further, the appellant's orthodontist failed to provide information that supported the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment. See Exhibit 4, pg. 11. It is also notable that the appellant's orthodontist did not sign the attestation form. See Exhibit 4, pg. 12.

After reviewing the provider's submission, MassHealth found insufficient evidence that the appellant's request for comprehensive orthodontic treatment was a medical necessity. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found the evidence supplied for the medical narrative insufficient to approve the treatment. For those reasons, MassHealth's determination that comprehensive orthodontic treatment was not medically necessary was appropriate and shall not be disturbed.

The appellant testified that she would benefit from orthodonture; however, she was unable to show that she met the requirements set out by MassHealth for approval for payment of the orthodonture. Accordingly, MassHealth's testimony is given greater weight. As the appellant does not qualify

for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that he does not have a severe and handicapping malocclusion. Accordingly, 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.

Alexis Demirjian
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA