

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2205008
Decision Date:	5/1/2023	Hearing Date:	3/1/2023
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Dr. Davd Cabeceiras, Dentaquest

Interpreter:

N/A



*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:	Orthodontic Pre-Authorization
Decision Date:	5/1/2023	Hearing Date:	3/1/2023
MassHealth's Rep.:	Dr. David Cabeceiras	Appellant's Rep.:	[REDACTED]
Hearing Location:	Quincy Harbor South 3	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 February 9, 2022, MassHealth denied the Appellant's application for prior approval for orthodontic treatment (Exhibit 1, p. 9). The Appellant attempted to file an appeal pursuant to 130 CMR 610.015(B), however, multiple phone calls between the Appellant's mother and the "MassHealth Dental Department" resulted in no appeal notice being issued. (Exhibit 1, p. 6, Testimony) Eventually, the Appellant's mother was directed to the Board of Hearings, however, this communication with the Board of Hearings was beyond the timeframe for a timely appeal. (See 130 CMR 610.015, Ex. 1, p. 6, Ex. 1, p.8). The request was denied on July 13, 2022. (See 130 CMR 610.015, 130 CMR 610.035, Ex. 1, p. 7). Additionally, a further letter was sent on July 26, 2022 informing the Appellant of his judicial review rights. (Ex. 1, p. 3, MGL c. 30A). The Appellant exercised his right to judicial review pursuant to MGL 30A. (Ex. 1, p. 2). An agreement was reached between the Plaintiff and Defendant in [REDACTED] Superior Court to dismiss the Superior Court action "contingent on the matter being remanded to the MassHealth Board of Hearings for a hearing reviewing the denial of pre-authorization for dental services for Plaintiff's minor child." The agreement further states "Such hearing must be conducted at a time convenient for the Plaintiff to attend in person." (Ex. 2)

Action Taken by MassHealth

MassHealth denied the Appellant's request for approval of the prior authorization for braces or full and comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, determining that the Appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

Summary of Evidence

The Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented by Dr. David Cabeceiras, 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. The hearing was held in-person at the Office of Medicaid, Board of Hearings offices in Quincy, Massachusetts pursuant to the Stipulation of Dismissal filed in Superior Court.

Dr. Cabeceiras testified that MassHealth 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.

The Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs dated from February 2022. As required, the Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 23. (Exhibit 4, p. 13) Dr. Cabeceiras testified that, on the HLD point scale, a score of 22 points is needed for approval. DentaQuest's evaluation returned a score of 20 on the HLD point scale. (Exhibit 4, pg. 20) Dr. Cabeceiras testified that he calculated a score of 19 on the HLD point scale after evaluating the submissions of the Appellant's orthodontic provider as well as his in-person evaluation of the Appellant. Specifically, Dr. Cabeceiras measured a score of 6 millimeters for an Overjet. (Testimony). Dr. Cabeceiras measured 5 millimeters for the Appellant's Overbite (Testimony). Dr. Cabeceiras measured Anterior Crowding in excess of 3.5 millimeters for one of the Appellant's arches for 5 points on the HLD index form. (Testimony). Finally, Dr. Cabeceiras measured the Labio-Lingual Spread at 3 millimeters. (Testimony). Although the Appellant's orthodontist measured a spread of 8 millimeters, Dr. Cabeceiras pointed out that according to the scoring instructions, the measurement only involves the front teeth, and he has never seen a Labio-Lingual Spread as high as 8 during his time as a dentist and orthodontist. (Testimony)

These measurements calculate to the 19 points on the HLD index form as Dr. Cabeceiras testified.

Regardless of point total, it is also possible to qualify for orthodontic treatment if the Appellant has a condition deemed an Autoqualifier. Here, the Appellant's provider suggested the presence of an Autoqualifier, specifically, an Overjet (greater than 9 millimeters). (Ex. 4, p. 13) Dentaquest did not find the presence of an Autoqualifier. (Ex. 4, p. 20) Dr. Cabeceiras testified he also did not find an Autoqualifier was present based upon his in-person review, and that he measured the Overjet at 6 millimeters, and indicated that was a generous measurement in the Appellant's favor. (Testimony)

Regardless of point total, it is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the Appellant. In order for the Appellant's particular conditions to be evaluated to see if those particular conditions support a Medical Necessity determination, evidence, in the form of a Medical Necessity Narrative letter and supporting documentation, must be submitted by the Appellant's requesting provider. Generally, this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental. Here, the Appellant's orthodontic provider did not indicate a Medical Necessity Narrative was submitted, nor was any additional supporting documentation submitted. Moreover, Dr. Cabeceiras' testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time

Findings of Fact

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

1. The Appellant is currently a [REDACTED] MassHealth member who had a request for prior approval for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1)
2. The Appellant's orthodontist returned an HLD score of 23 points on the HLD index form. (Testimony; Ex. 4, p. 13)
3. Dentaquest returned an HLD score of 20 points on the HLD index form. (Testimony; Ex. 4, p. 20)
4. Based upon his review of the Appellant's submission and his in-person review, Dr. Cabeceiras returned a score of 19 points on the HLD index form. (Testimony)
5. The Appellant's orthodontist indicated the presence of an Autoqualifier, specifically, an Overjet in excess of 9 millimeters (Ex. 4, p. 13)
6. Dentaquest did not indicate the presence of an Autoqualifier. (Ex 4, p.20)
7. Based upon his in-person examination of the Appellant in March, 2023, Dr. Cabeceiras did not

find the presence of an Autoqualifier. Dr. Cabeceiras' in-person measurement of the Appellant's Overjet measured no greater than 6 millimeters. (Testimony)

8. The Appellant's orthodontist indicated no Medical Necessity Narrative was submitted. (Ex. 4, p. 14)

9. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 4)

10. Dr. Cabeceiras' testimony does not support a Medical Necessity determination at this time. (Testimony)

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 covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 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

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 (including the HLD form), and service codes found in related subchapters and appendices.

See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

Exhibit 7. 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., [437 Mass. 128](#), 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., [11 Mass. App. Ct. 333](#), 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, [45 Mass. App. Ct. 386](#), 390 (1998). On this record, the Appellant has not demonstrated the invalidity of the denial of preauthorization for braces. Regarding an Autoqualifier condition, the Appellant's orthodontist indicated the presence of an Overjet in excess of 9 millimeters. (Ex. 4, p. 13). However, this was based upon a submission from February of 2022 and supported with x-rays. Dentaquest did not find an Autoqualifier was present. I credit Dr. Cabeceiras's testimony that he also did not find an Autoqualifier was present based upon his in-person review, and that he measured the Overjet at 6 millimeters, and indicated that was a generous measurement in the Appellant's favor. (Testimony) Regarding the HLD score, although the Appellant's orthodontist returned a score of 24 on the HLD form, I credit the testimony of Dr. Cabeceiras and conclude the 5 points scored for Anterior Crowding on the Appellant's top arch by the Appellant's orthodontist is not supported by the submitted evidence at this time and the Appellant's HLD score is below 22. (See discussion *infra*) No medical necessity was requested or properly supported in this record as required by the Regulations.

In this case, regarding an Autoqualifier condition, the Appellant's orthodontic provider did indicate the presence of an Autoqualifier condition, specifically an Overjet greater than 9 millimeters. (Ex. 4, p. 13) DentaQuest did not calculate any presence of an Autoqualifier condition. (Ex. 4, p. 20) Dr. Cabeceiras did not calculate any presence of an Autoqualifier condition. (Testimony) Specifically, based upon his in-person examination of the Appellant, Dr. Cabeceiras did measure an Overjet, however, the Overjet measured no greater than 6 millimeters, below the measurement required for the Overjet to be classified as an Autoqualifier. I credit Dr. Cabeceiras' testimony and in-person examination of the Appellant. Dr. Cabeceiras's in-person evaluation was performed at the time of the hearing in March of 2023 whereas, the Appellant's orthodontist's evaluation was performed in excess of one year prior to the examination performed in-person by Dr. Cabeceiras. Therefore, I find no Autoqualifier condition is met in this case based on the evidence

presented at this time.

A review of the HLD scores is required to ascertain 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. Here, although the Appellant's own orthodontic provider, calculated a score of 23 points as required for approval pursuant to the MassHealth Regulations and the MassHealth Dental Program Manual. However, I credit the testimony of Dr. Cabeceiras and his contemporaneous examination of the Appellant in person. Dr. Cabeceiras measured a score of 6 millimeters for an Overjet. (Testimony). Dr. Cabeceiras measured 5 millimeters for the Appellant's Overbite (Testimony). Dr. Cabeceiras measured Anterior Crowding in excess of 3.5 millimeters for one of the Appellant's arches for 5 points on the HLD index form. (Testimony). Finally, Dr. Cabeceiras measured the Labio-Lingual Spread at 3 millimeters. (Testimony). Although the Appellant's orthodontist measured a Labio-Lingual Spread of 8 millimeters, Dr. Cabeceiras pointed out that according to the scoring instructions, the measurement only involves the front teeth, and he has never seen a Labio-Lingual Spread as high as 8 during his time as a dentist and orthodontist. (Testimony) These measurements calculate to the 19 points on the HLD index form as Dr. Cabeceiras testified. Therefore, I find the HLD Index score of 22 or more points is not met in this case based on the evidence presented at this time.

Regarding a Medical Necessity determination, the Appellant's orthodontic provider did not submit a Medical Necessity Narrative or documents to justify a Medical Necessity determination for the request for braces. (Ex. 4, p. 14). Moreover, Dr. Cabeceiras' testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Exhibit 4, testimony) I find no medical necessity is met in this case based on the evidence presented at this time.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should

contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Patrick Grogan
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA