

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2205079
Decision Date:	9/13/2022	Hearing Date:	08/29/2022
Hearing Officer:	Casey Groff		

Appearance for Appellant:
Pro se

Appearance for MassHealth:
Carl Perlmutter, D.M.D.



*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:	Prior Authorization; Orthodontic Services
Decision Date:	9/13/2022	Hearing Date:	08/29/2022
MassHealth's Rep.:	Carl Perlmutter, D.M.D.	Appellant's Rep.:	<i>Pro se</i>
Hearing Location:	Board of Hearings (Remote)	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 May 2, 2022, MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment. See Exhibits 3 and 5. Appellant filed a timely appeal on May 31, 2022; however, she did not include or refer to the underlying MassHealth action prompting her appeal. See 130 CMR 610.015(B) and Exhibit 1. On July 8, 2022, the Board of Hearings (BOH) dismissed her appeal for failure to demonstrate an appealable action. See Exh. 2; 130 CMR 610.034-5. On July 20, 2022, Appellant requested the dismissal be vacated by submitting a copy of the May 2, 2022 denial. See Exh. 3. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth correctly denied Appellant's prior authorization request for comprehensive orthodontic treatment.

Summary of Evidence

At hearing, MassHealth was represented by Dr. Carl Perlmutter, D.M.D. a licensed orthodontist consultant from DentaQuest. DentaQuest is the third-party contractor that administers and manages the MassHealth's dental program. Through testimony and documentary evidence the MassHealth representative presented the following information: On April 28, 2022, Appellant's providing orthodontist sent MassHealth a prior authorization (PA) request for coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). See Exh. 5. At the time of the PA request, Appellant was under the age of 21 and an active MassHealth member. On March 2, 2022, MassHealth denied the PA request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id. at 4-6.

Dr. Perlmutter explained that MassHealth will only authorize coverage for comprehensive orthodontic treatment when there is evidence of a handicapping malocclusion. MassHealth uses a Handicapping Labio-Lingual Deviations (HLD) Index to determine whether a handicapping malocclusion exists. The HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score representing the degree to which a case deviates from normal alignment and occlusion. MassHealth does not consider a condition to be "physically handicapping" unless the individual's HLD score is 22 points or higher. In addition, the HLD index allows the provider to indicate if the member has one of several enumerated "auto qualifying conditions," which, if present, would constitute an alternative basis to render a finding that the condition is physically handicapping.

Dr. Perlmutter testified that as documented in the PA request, Appellant's orthodontist measured an HLD score of 20. See id. at 8. There was no indication in the PA request that Appellant had a "auto-qualifying" condition or met MassHealth's "medical necessity" exception. Therefore, the PA, itself, did not demonstrate that Appellant had a "handicapping malocclusion" as defined by MassHealth. Nevertheless, a MassHealth dental consultant reviewed the PA request, which included Appellant's dental records, oral photographs, and x-rays, and determined that Appellant had an HLD score of 14. Dr. Perlmutter testified that he conducted a secondary review of the dental records and calculated an HLD score of 19. Because neither the treating provider nor the reviewing MassHealth dental consultants found an HLD score greater than or equal to 22, the request for comprehensive orthodontic treatment was denied.

Appellant appeared at the hearing and argued that the requested orthodontic treatment is medically necessary. Her bottom teeth cut into the roof of her mouth, which causes bleeding and pain. The condition of her teeth has also caused her to have insecurities. She cannot pay for this treatment out-of-pocket. Appellant argued that because MassHealth did not examine her teeth in

person, but only through photographs, MassHealth does not have an accurate understanding of the severity of her condition. The pictures do not represent the full extent of the work needed.

In response, Dr. Perlmutter testified that her provider sent high quality photographs and x-rays that allowed him to accurately measure her HLD score. While Appellant would benefit from braces, her condition is not severe enough to meet MassHealth's definition of "handicapping." More importantly, Appellant's own provider did not find that Appellant had the requisite HLD score to meet MassHealth's standards. Finally, Appellant is ineligible for orthodontic treatment at this time as she exceeded the age limit set by regulation.

Findings of Fact

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

1. On April 28, 2022, Appellant's orthodontic provider sent MassHealth a PA request on behalf of Appellant seeking coverage of comprehensive orthodontic treatment.
2. At the time of the PA request, Appellant was under the age of 21 and was an active MassHealth member.
3. In the PA request, the provider reported a finding that Appellant had an HLD score of 20.
4. The PA request did not identify the presence of an auto-qualifying condition, nor did it include a medical necessity narrative.
5. In reviewing the PA request, which included Appellant's dental records, oral photographs, x-rays, and written information, a MassHealth dental consultant calculated an HLD score of 14.
6. On May 2, 2022, MassHealth denied the PA request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment
7. For purposes of the fair hearing, the MassHealth representative – a board certified orthodontist - conducted a secondary review of Appellant's dental records and calculated an HLD score of 19.

Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment provides, in relevant part, the following:

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*.

See 130 CMR 420.431(C)(3) (emphasis added).

Appendix D of the *Dental Manual* is the Authorization Form for Comprehensive Orthodontic Treatment and consists of the “Handicapping Labio-Lingual Deviations” (HLD) Index. The HLD is described as a quantitative, objective method for measuring malocclusion. See Exh. 5. 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 handicapping malocclusion. See *Dental Manual*, Appendix D. Additionally, MassHealth will approve coverage for orthodontic treatment, without regard for the HLD numerical score, if there is evidence that the member has an “auto-qualifying” condition. Id. The HLD Index lists 13 separate “auto-qualifying conditions” which a provider may check, if applicable, as a basis for the requested treatment. See id. The HLD form explicitly states that ***MassHealth will authorize treatment only “for cases with verified auto-qualifiers or verified scores of 22 and above.”*** See id. (emphasis added). Finally, providers may seek comprehensive orthodontic treatment by submitting a “medical necessity narrative” that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.¹

¹ Under Appendix D of the *Dental Manual* the “medical necessity narrative” must further show that the treatment will correct or significantly ameliorate (i.) a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures; ii. a diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion; iii. a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion; iv. a diagnosed speech or language pathology caused by the patient’s malocclusion; or v. a condition in which the overall severity or impact of the patient’s malocclusion is not otherwise apparent. 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: (1) 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); (2) describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment; (3) state the specific diagnosis or other opinion of the patient’s condition furnished by the identified clinician(s); (4) document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made); (5) discuss any treatments for the patient’s condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and (6) provide any other relevant information from the clinician(s) that supports the requesting provider’s justification of the medical necessity of comprehensive orthodontic treatment.

In this case, Appellant's orthodontist did not indicate that Appellant had an auto-qualifying condition, nor did he include a medical necessity narrative in support of the requested treatment. Rather, Appellant's provider requested MassHealth cover the proposed orthodontic treatment based upon his finding that Appellant had an HLD score of 20. In reviewing Appellant's PA request, and the photographs and x-rays contained therein, a MassHealth orthodontic consultant measured an HLD score of 14. See Exh. 5. As part of the fair hearing process, a different MassHealth orthodontic consultant – Dr. Perlmutter - performed a secondary review of Appellant's records. Dr. Perlmutter measured an HLD score of 19, thereby affirming MassHealth's initial determination that she did not satisfy clinical criteria for coverage. In summary, neither Appellant's provider, nor the reviewing MassHealth dental consultants, found that Appellant had a qualifying HLD score of 22 points or more. While Appellant provided credible testimony showing that she would benefit from braces, there was ultimately no evidence that her condition amounted to a "handicapping malocclusion" as required under 130 CMR 420.431(C)(3) to warrant coverage for orthodontic treatment.

Based on the foregoing, 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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 2, MA