

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2205276
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 June 21, 2022, MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment. See Exhibits 1 and 4. Appellant filed a timely appeal on July 15, 2022. See 130 CMR 610.015(B) and Exhibit 1. 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 June 16, 2022, Appellant's orthodontist sent MassHealth a prior authorization (PA) request on behalf of Appellant, seeking coverage of comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). See Exh. 4. At the time of the PA request, Appellant was under the age of 21 and an active MassHealth member. On June 21, 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 3-4.

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 Appellant's provider did not include an HLD score in the PA request. See id. at 9. Rather, Appellant's provider requested treatment on the basis that Appellant had an auto-qualifying condition, specifically: "spacing of 10mm or more, in either the maxillary or mandibular arch (excluding 3rd molars)." Id. Upon receipt of the PA request, a dental consultant from DentaQuest reviewed the documentation, including Appellant's dental records, oral photographs, and x-rays, and determined that Appellant did not have any of the enumerated auto-qualifying conditions, including spacing. Additionally, the dental consultant measured Appellant with an HLD score of 16 based on the records submitted. Dr. Perlmutter testified that for purposes of this appeal, he conducted a secondary independent review of the PA request. Dr. Perlmutter explained that the provider's reasoning of "spacing" between the teeth did not make sense. The documentation and photographs clearly indicate that Appellant does not have spacing, but rather, she has the opposite problem of overcrowding. In measuring the individual characteristics of her bite, Dr. Perlmutter found Appellant had overcrowding of 5mm. Along with the other HLD measurements, he came to a total HLD score of 16, which was less than the required 22 for MassHealth to cover braces.

Appellant appeared at the hearing by telephone and agreed that the issue with her teeth is not spacing but overcrowding. The overcrowding causes her teeth to bleed constantly and it is painful to brush her teeth. The overcrowding affects her eating because she cannot eat a meal without tasting blood. Appellant testified that she has very good oral hygiene, and there is nothing more she can do in the way brushing or flossing that would help reduce the swelling of gums. She has gone to two orthodontists who have told her she needs braces, as well as her

dentist. One of the orthodontists uses an HLD Index that requires a score of 18, which she is close to. Additionally, the dentist explained that her overcrowding will get much worse, and she will be well beyond the 22 points in a few years, which is why she wants to start treatment now. She does not want it to get any worse.

In response, Dr. Perlmutter explained he could see that she had lower-front crowding, which he measured at 5 points on the HLD Index. However, including all the other factors, including overbite, overjet, and other characteristics of the bite, he only got 16 points. This does not amount to a handicapping bite.

Findings of Fact

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

1. On June 16, 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 an active MassHealth member.
3. In the PA request, the provider did not include an HLD score, but noted that she had an auto-qualifying condition of "spacing of 10mm or more, in either the maxillary or mandibular arch (excluding 3rd molars)."
4. 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 16 and found that Appellant did not have any auto-qualifying condition, including spacing.
5. On June 21, 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
6. 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 16 and did not find the presence of any auto-qualifying condition.
7. Dr. Perlmutter found that Appellant had lower-front crowding, but it did not reach the requisite 10mm to be considered "handicapping."

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, when 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 include an HLD score or medical necessity narrative in submitting the PA request. Rather, Appellant’s provider requested the proposed treatment on the basis that Appellant had an auto-qualifying condition; specifically, that of “spacing of 10 mm or more.” Exh. 4, p. 9. Upon reviewing the PA request and Appellant’s dental records therein, neither MassHealth dental consultant supported the finding that Appellant had an auto-qualifying condition, including spacing. In fact, the documentation showed – and Appellant agreed – that she had the opposite problem of overcrowding. While “crowding of 10mm or more” does constitute a separate auto-qualifying condition, neither MassHealth consultant found Appellant’s overcrowding reached this requisite measurement. Additionally, in reviewing the various HLD factors, both MassHealth dental consultants gave Appellant a total HLD score of 16 points. While Appellant provided credible testimony about the difficulties she experiences from overcrowding, there was ultimately no evidence to prove 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