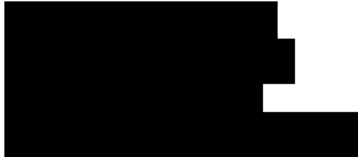


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2205860

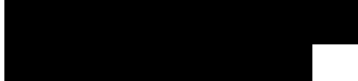
Decision Date: 9/20/2022

Hearing Date: 09/12/2022

Hearing Officer: Thomas Doyle

Record Open to:

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan DMD

Interpreter:



*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:	Denial	Issue:	PA-Dental Services
Decision Date:	9/20/2022	Hearing Date:	09/12/2022
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	[REDACTED]
Hearing Location:	Remote (telephone)	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 July 5, 2022, MassHealth denied the appellant's request for prior authorization of full orthodontic treatment. (130 CMR 420.431; Ex. 1). The appellant filed this appeal in a timely manner on August 2, 2022. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

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

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by her mother. Her father also testified on her behalf. MassHealth was represented at hearing by Dr. Kaplan, 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. All parties testified telephonically.

Dr. Kaplan testified that the MassHealth insurance 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.

Appellant’s orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the Appellant’s dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 23.

Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 20 on the scale. Appellant’s orthodontist reached a score of 23 and DentaQuest reached a score of 15.

Regardless of point total, it is also possible to qualify for orthodontic treatment if appellant has a condition deemed an automatic qualifier. Here, appellant’s provider found an automatic qualifier was present, an Overjet of 10 mm. Dr. Kaplan testified that the overjet needs to be more than 9 mm and he only found it to be 8 mm. Evidence submitted by DentaQuest also shows in their review they did not check off that an automatic qualifier was found. Dr. Kaplan explained that if the measurement is under 9 mm, DentaQuest will not check no to the question if the condition is observed.

Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony and Ex. 1, p. 1; Ex. 4, p. 2).
2. Appellant’s provider submitted the request with an HLD score of 23 points. (Ex. 4, p. 9).
3. Neither the initial DentaQuest review nor in the testimony by Dr. Kaplan was evidence found of 22 or more points on the HLD scale. (Ex. 4, p. 15; Testimony). Dr. Kaplan found a score of 20 on the HLD scale. (Testimony). DentaQuest found a score of 15. (Ex. 4, p. 15).
4. Appellant’s orthodontist found an automatic qualifier applicable, namely an Overjet of 10 mm. (Ex. 4, p. 9).
5. DentaQuest found no applicable automatic qualifier. (Ex. 4, p. 15). Dr. Kaplan also found no automatic qualifier was applicable. (Testimony).

6. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 10; 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 42.421 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 Exhibit 4. 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

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>.

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.

In this case, appellant's orthodontist indicated the presence of an automatic qualifier condition, namely an overjet of 10 mm. (Ex. 4, p. 9). However, Dr. Kaplan testified, after his careful review of the x-rays and photos of appellant's teeth, the overjet was only 8 mm and that an overjet of more than 9 mm is needed for the auto qualifier to apply. (Testimony). DentaQuest, in its review, also found no auto qualifier present. (Ex. 4, p. 15). Dr. Kaplan's assessment, testimony, and explanation about how the overbite was not severe enough to satisfy the condition was logical and consistent with the evidence and his presence subjecting him to cross-examination gave his opinion greater weight.

Turning to the HLD scores to see 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. (Testimony). In this case, appellant's orthodontist found a score of 23 points. (Ex. 4, p. 9). In his testimony, Dr. Kaplan found an HLD score of 20. (Testimony). The review by DentaQuest obtained a score of 15. (Ex. 4, p. 15). Of three reviews of appellant's teeth measured for the HLD scale, two reviewers obtained a score under the necessary 22 points. Based on the overall testimony given at hearing, I find that opinion of the orthodontist present at hearing to be persuasive and plausible.

Appellant's father testified that their orthodontist told them they had to pay five thousand dollars out of pocket for the "first phase" of braces, which he did. He also testified that their orthodontist told them the "second phase" for braces would be covered by MassHealth insurance. (Testimony).² Appellant's other argument about how appellant would benefit from the treatment unfortunately do not serve as a separate basis for approval at the current time. For these reasons, I conclude that there is no basis to rescind or overrule the MassHealth decision. As mentioned at hearing, appellant can be re-examined in six months per 130 CMR 420.431(C)(1) to have her conditions reassessed to see if the problem has become severe enough to allow MassHealth to consider future approval.

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

² It is puzzling appellant's orthodontist does not seem familiar with 130 CMR 420.410 (A)(3) regarding starting a service without prior authorization.

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 2, MA

[REDACTED]