

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2206497
Decision Date:	11/9/2022	Hearing Date:	10/03/2022
Hearing Officer:	Marc Tonaszuck	Record Open to:	10/14/2022

Appearance for Appellant:



Appearance for MassHealth:
Dr. Harold Kaplan, DentaQuest



*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:	11/9/2022	Hearing Date:	10/03/2022
MassHealth's Rep.:	Dr. Harold Kaplan, DentaQuest	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 08/24/2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf¹ on 08/31/2022 (see 130 CMR 610.015(B) and Exhibit 2)². Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

At the fair hearing that took place on 10/03/2022, the appellant's mother requested an opportunity to provide additional evidence. The record remained open in this matter until 10/07/2022 for the appellant's submission and until 10/14/2022 for MassHealth's response (Exhibits 5, 6, and 7).

¹ The appellant is a minor child who was represented in these proceedings by her mother.

² In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 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.

Action Taken by MassHealth

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

Issue

Is the appellant ineligible for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(E)?

Summary of Evidence

The MassHealth orthodontic consultant from DentaQuest testified that on 08/22/2022 the appellant's provider requested prior authorization (PA) for comprehensive orthodontic treatment on behalf of the appellant, a MassHealth member under 21 years of age. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. 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 MassHealth 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 and/or an automatic qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider, Dr. Guay, reported that the appellant had an "automatic qualifier," whereby MassHealth approves orthodontic treatment without calculating an HLD score. Specifically, the provider indicated that the appellant has "anterior impactions." In addition to identifying an automatic qualifying condition, Dr. Guay calculated an HLD Index score of 13 points.

When DentaQuest received the appellant's PA request, the reviewing orthodontist determined that there were no impacted teeth that meet the definition of on the HLD Index. Further, DentaQuest determined that the appellant's HLD Index score did not reach the required 22 points. As a result, the PA request for the appellant's comprehensive orthodontics was denied by MassHealth on 08/24/2022.

The DentaQuest orthodontist testified that in preparation for the fair hearing, he reviewed the appellant's documentation provided to MassHealth with the prior authorization request from his orthodontist. He stated that his review of the appellant's photographs does not show impactions. He stated that although one or more teeth have not yet erupted, the X-

rays show that they are in a position where they will erupt in time without impaction. He confirmed that the appellant's age suggests that those teeth are not delayed in erupting. As a result, he could not find that there is at least one instance of an impaction and no other automatic qualifier. Further, his calculation of an HLD Index score was below the required 22 points. He concluded that without an HLD Index score of 22, or an automatic qualifying condition, there is no evidence of a severe and/or handicapping malocclusion and the appellant did not meet the criteria for MassHealth payment of the appellant's orthodontic services.

The appellant's mother testified that the appellant has had teeth extracted because he grinds his teeth. Further he has an overbite and bites the inside of his mouth. He also wakes up with pain due to his teeth grinding.

Dr. Kaplan responded that the appellant's "eye teeth" have not yet erupted, but the roots are not fully formed, indicating that they are not yet ready to erupt. There is room for them to come in when it is time. He testified that it is impossible to call the teeth impacted, unless the roots are fully formed and the teeth still are not erupted.

The mother requested an opportunity to provide updated X-rays showing that the appellant's teeth are impacted and that MassHealth should therefore approve the request for braces. Her request was granted and the record remained open for her submission until 10/07/2022 and until 10/14/2022 for MassHealth's response (Exhibit 5).

On 10/04/2022, the appellant's orthodontic provider submitted to the hearing officer an updated X-ray (Exhibit 6). On 10/05/2022, Dr. Kaplan, responded that the X-ray shows that the appellant's teeth are beginning to erupt, and therefore they do not meet the definition of "impacted" (Exhibit 7).

Findings of Fact

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

1. The appellant is a MassHealth member who is a minor appellant, represented at the fair hearing by his mother (Testimony).
2. On 08/22/2022, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. The appellant's orthodontic provider indicated on the HLD Index form that the appellant has an automatic qualifying condition; specifically, he has at least one impacted tooth. The provider then calculated an HLD score of 13 points (Exhibit 4).
4. DentaQuest, on behalf of MassHealth, reviewed the appellant's PA request and determined that the HLD Index score was below 22 points. Additionally, the reviewing

orthodontist determined that the appellant did not have impacted teeth, as defined by the HLD Index, nor did he have any other automatic qualifying conditions (Exhibits 1 and 4).

5. On 08/24/2022, MassHealth denied the appellant's prior authorization request (Exhibit 1).
6. A timely request for a fair hearing was submitted on the appellant's behalf on 08/31/2022 (Exhibit 2).
7. A fair hearing took place on 10/03/2022 before the Board of Hearings (Exhibit 3).
8. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
9. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index.
10. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
11. An instance of one or more impactions is an automatic qualifier for MassHealth payment of comprehensive orthodontic services (braces). Impactions is defined on the HLD Index form as a tooth "where eruption is impeded but extraction is not indicated (excluding third molars)" (Testimony; Exhibit 4).
12. Using measurements taken from the appellant's oral photographs and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant does not have an impacted tooth, specifically because of the appellant's age, the formation of the roots, and the position of the teeth, the teeth should erupt normally in time (Testimony).
13. The DentaQuest orthodontist testified that the appellant's HLD Index score was less than 22 points (Testimony).
14. The DentaQuest orthodontist concluded that the appellant does not have a severe and handicapping malocclusion.
15. There is no other information in the hearing record to suggest that the comprehensive orthodontic services are medically necessary.

Analysis and Conclusions of Law

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

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22.

In this case, the appellant's treating orthodontist calculated an overall HLD Index score of 13 points, well below the necessary 22 points required for MassHealth approval. The treating orthodontist indicated that the appellant had an "automatic qualifier," specifically an impacted tooth. MassHealth, using the photographs and X-rays provided by the appellant's treating orthodontist could not verify the existence of impactions. The MassHealth representative testified to the hearing officer with the use of the photographs and X-rays how the appellant's treating orthodontist erred in identifying the impactions. He testified credibly and under oath that the appellant's age, the formation of the tooth roots and the position of the teeth below the gum line do not show impactions.

The appellant's mother requested an opportunity to submit updated X-rays showing that the teeth are impacted. The record remained open and during the record open period, the appellant's mother submitted new X-rays. Dr. Kaplan reviewed the X-rays and responded that they show that the teeth are not impacted; in fact, they are beginning to erupt.

I credit Dr. Kaplan's testimony that the teeth in question are in a position to erupt in time and therefore they do not meet the definition of "impacted." Without the automatic qualifying condition, none of the reviewing orthodontists, including the appellant's treating orthodontist, could find an HLD Index score of 22. The appellant's treating orthodontist did not appear at the fair hearing and was not available for cross examination by the MassHealth representative or for questioning by the hearing officer. As a result, I agree with DentaQuest that there is not a handicapping and/or severe malocclusion and no automatic qualifying conditions. MassHealth correctly denied the prior authorization request for orthodontic treatment. This appeal is therefore 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest