

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2206513

Decision Date: 10/19/2022

Hearing Date: 10/03/2022

Hearing Officer: Marc Tonaszuck

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:	10/19/2022	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 Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 07/12/2022, 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).

¹ The appellant is a minor child who was represented in this matter by his 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

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared as the appeal representative at hearing via telephone. MassHealth was represented at hearing by Dr. Harold Kaplan, also by telephone, an orthodontic consultant from the MassHealth dental contractor, DentaQuest.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 07/11/2022. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has an HLD score of 28, as follows:

The appellant's	Conditions Observed	Raw Score	Multiplier	Weighted Score
	Overjet in mm	3	1	3
	Overbite in mm	4	1	4
	Mandibular Protrusion in mm	1	5	5
	Open Bite in mm	0	4	0
	Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
	Anterior Crowding	Maxilla: 5 Mandible: 5	Flat score of 5 for each	10
	Labio-Lingual Spread, in mm (anterior spacing)	6	1	6
	Posterior Unilateral Crossbite	0	Flat score of 4	0
	Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
	Total HLD Score			28

orthodontist also identified an automatic qualifying condition; specifically, that the appellant has a reverse overjet greater than 3.5 mm. The provider indicated that he did not include a medical necessity narrative.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 17. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: X Mandible: 0	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			17

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 07/12/2022.

At hearing, Dr. Kaplan testified on behalf of MassHealth that the appellant has an HLD score of 19, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: X Mandible: 0	Flat score of 5 for each	5

Labio-Lingual Spread, in mm (anterior spacing)	5	1	5
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			19

Dr. Kaplan testified that there are three primary differences between his score and the score assessed by the providing orthodontist. First, Dr. Kaplan addressed the whether the appellant has the automatic qualifying condition of a reverse overjet greater than 3.5 mm. Dr. Kaplan explained that this condition is when the upper incisor hits behind the bottom incisor by at least 3.5 mm (an “underbite”). He testified that the appellant has one top tooth that bites inside the bottom corresponding tooth; however, the appellant does not meet the requirements of this automatic qualifying condition because although the tooth is a reverse overjet, it is less than 3.5 mm.

Second, Dr. Kaplan addressed the treating orthodontist’s assessment that the appellant has a mandibular protrusion of 1 mm, totaling 5 points on the HLD index. Dr. Kaplan explained that a mandibular protrusion exists when the bottom arch (mandible), protrudes in front of the top arch (maxillary), as evidenced by how the top molars relate to the corresponding bottom molars. Dr. Kaplan explained that if the bottom molars are in front (protrude) and line up in a forward position to the corresponding top molars, a mandibular protrusion exists within the definition of the HLD index. In this case, the position appellant’s molars is “ideal,” as observed in the photographs and X-rays. As a result, no score could be given in this field.

Finally, Dr. Kaplan addressed the score given by the treating orthodontist for anterior crowding. The appellant’s provider scored 5 points for crowding on each arch (top and bottom), totaling 10 points for anterior crowding. Dr. Kaplan explained that the rules included with the HLD index form state that in order to score in this field, a member must have at least 3.5 mm of crowding among the six front teeth. The appellant has at least 3.5 mm of crowding on his top (maxillary) arch; however, there is not at least 3.5 mm of crowding among the six front teeth on the bottom arch. The appellant cannot score 5 mm. for mandibular crowding. Accordingly the appellant may only score 5 points in this section, for maxillary anterior crowding.

Dr. Kaplan concluded that although the appellant would benefit from comprehensive orthodontic treatment to treat his malocclusion, he does not have an automatic qualifying

condition. Moreover, his HLD index score is 19 and does not reach the required 22 points. Finally, there is no other information included with the appellant's submission to show that he qualifies for MassHealth payment for comprehensive orthodontic services.

The appellant's mother testified that she did not understand why MassHealth could not approve the appellant based on his treating orthodontist's assessment. She was told that he had an automatic qualifying condition.

Dr. Kaplan responded that the appellant should be re-evaluated by the treating orthodontist in six months, at which time, he may re-submit his request for comprehensive orthodontics. His situation may change to the extent that MassHealth may approve a future request; however, at this time the appellant does not qualify.

Findings of Fact

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

1. On 07/11/2022, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, calculated an HLD score of 28 points. He also indicated that the appellant has an automatic qualifying conditions; specifically a reverse overjet greater than 3.5 mm (Exhibit 4).
3. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 17, with no automatic qualifying condition (Exhibit 4).
5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or when the member has an automatic qualifying condition (Testimony).
6. On 07/12/2022, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
7. On 08/31/2022, the appellant filed a timely appeal of the denial (Exhibit 2).
8. On 10/03/2022, a fair hearing took place before the Board of Hearings.
9. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's

paperwork, photographs, and X-rays and found an HLD score of 19 (Testimony).

10. The MassHealth orthodontist found that the appellant does not have a reverse overjet greater than 3.5 mm.
11. The appellant does not have at least 3.5 mm of crowding on the anterior mandibular arch.
12. The appellant's HLD score is below 22.
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, severe maxillary anterior crowding greater than 8 mm, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm).

Analysis and Conclusions of Law

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

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 the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

Appendix D of the Dental Manual is the "Handicapping Labio-Lingual Deviations Form" (HLD), which is described as a quantitative, objective method for measuring malocclusion. 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 severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant's provider documented that the appellant has an HLD score of 28 plus an automatic qualifying condition; specifically, a reverse overjet greater than 3.5 mm. Upon receipt of the PA request and after reviewing the provider's submission, MassHealth found an HLD score of 17 and no automatic qualifying condition. At hearing a different orthodontic consultant found an HLD score of 19 and no automatic qualifying condition,

based on his review of the materials submitted with the PA request.

There are three main differences between the appellant's provider's score and that of Dr. Kaplan's score at the fair hearing. First, the appellant's treating orthodontist checked off on the HLD index form that the appellant has a reverse overjet greater than 3.5 mm. Dr. Kaplan testified that the appellant does not have a reverse overjet greater than 3.5 mm. Dr. Kaplan is an orthodontist, licensed in Massachusetts. He testified at the fair hearing and was available for questioning by the hearing officer and to be cross-examined by the appellant's representative. Dr. Kaplan testified credibly that the appellant's malocclusion may qualify as a reverse overjet; however, it does not measure at least 3.5 mm.

Second, the appellant's treating provider indicated that the appellant has a mandibular protrusion of 1 mm, giving him 5 points. Dr. Kaplan testified credibly that the appellant does not, indeed, have a mandibular protrusion. His molars are "ideal" and the bottom molars do not protrude in front of the top corresponding molars. Dr. Kaplan's testimony is supported by the photographs.

Finally, the appellant's treating orthodontist indicated that the appellant has anterior (front) crowding on both arches, scoring 5 points for each. In order to score 5 points in this field, a member must have at least 3.5 mm of total crowding between the six front teeth on either arch. Dr. Kaplan confirmed that the appellant has at least 3.5 mm of crowding on his top arch; however, he could not find 3.5 mm of crowding among the six front teeth on the lower arch. He directed the appellant's mother and the hearing officer to the photographs when he testified.

I credit Dr. Kaplan's testimony in all of the above cases. He appeared at the fair hearing, was available to be questioned and cross-examined, he supported his testimony with the language of the HLD index score sheet, photographs and X-rays submitted by the appellant's treating orthodontist. Therefore, Dr. Kaplan's determination that the appellant does not meet the criteria set out on the HLD index form for reverse overjet greater than 3.5 mm, that the appellant does not have a mandibular protrusion, and does not have at least 3.5 mm of anterior crowding on his lower (mandibular) arch, is supported by the evidence in the hearing record as well as the relevant regulations and policies.

The appellant's mother testified credibly that the appellant would benefit from orthodonture; however, she was unable to show that the appellant met the requirements set out by MassHealth for approval for payment of the orthodonture. Accordingly, MassHealth's testimony is given greater weight. As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that she does not have a severe and handicapping malocclusion. Accordingly, MassHealth correctly denied this request for comprehensive orthodontic services and 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA