

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2207593
Decision Date:	1/11/2023	Hearing Date:	11/21/2022
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Carl Perlmutter, D.M.D., 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:	Prior Authorization; Orthodontic Services
Decision Date:	1/11/2023	Hearing Date:	11/21/2022
MassHealth's Rep.:	Carl Perlmutter, D.M.D.	Appellant's Rep.:	Mother
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 September 13, 2022, MassHealth informed Appellant, a minor, that it denied her prior authorization (PA) request for comprehensive orthodontic treatment. See Exhibits 1 and 4. Appellant filed a timely appeal with the Board of Hearings (BOH) on October 12, 2022; however, the fair hearing request form had not been signed by Appellant's parent or guardian. See 130 CMR 610.015(B) and Exhibit 1. On October 18, 2022, BOH dismissed the appeal due to lack of authorization. See Exh. 3. On October 24, 2022, Appellant's mother responded to this dismissal and resubmitted the fair hearing request to BOH with the appropriate signature, thereby vacating the dismissal. See Exh. 4. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's PA request for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth correctly denied Appellant's PA 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 dental program. According to testimony and documentary evidence presented by the MassHealth representative, Appellant is a minor child and MassHealth recipient. Appellant's orthodontic provider sent MassHealth a prior authorization (PA) request on September 9, 2022, seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). See Exh. 6, p. 3. On September 13, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id.

Dr. Perlmutter explained that MassHealth will only authorize coverage for comprehensive orthodontic treatment when there is evidence of a handicapping malocclusion. Providers requesting such treatment are required to complete a "Handicapping Labio-Lingual Deviations" (HLD) Index, which captures the objective measurements of various characteristics of the subject's teeth, such as crowding, overbite, and overjet. Each characteristic is assigned a numerical score based on the measurement, the total of which represents the degree to which a case deviates from normal alignment and occlusion. MassHealth only considers a malocclusion to be "physically handicapping" if the individual's HLD score is at least 22 points, or if a particular characteristic of their bite is so severe that it falls into one of several enumerated "auto-qualifying" conditions, as outlined in the HLD Index. MassHealth will also consider alternative bases for coverage when the request contains a clinical narrative and documentation establishing medical necessity.

In the present case, Appellant's provider submitted the PA request on behalf of Appellant citing two grounds for coverage of the requested treatment. First, the provider found that Appellant had an auto-qualifying condition of "impaction where eruption is impeded but extraction is not indicated." See Exh. 6, p. 8. Second, the provider measured Appellant with a total HLD score of 28 points. Id. The provider did not include a medical necessity narrative with the PA request. Id. at 10.

Upon receipt of the PA request, a MassHealth dental consultant reviewed all submitted documentation, which included x-rays, photographs, and written information. Based on the documentation provided, the MassHealth consultant measured a total HLD score of 9 points, consisting of 3 points for overjet, 3 points for overbite, and 3 points for labio-lingual spread. Id. The consultant did not find evidence of impaction, or the presence of any other auto-qualifying condition. As MassHealth could not verify the presence of an auto qualifying condition or an HLD score above 22 points, the PA request was denied. Id. at 2. Dr. Perlmutter testified that prior to this hearing, he conducted a thorough and careful secondary review of Appellant's dental record. Consistent with the initial consultant's measurements, Dr. Perlmutter also calculated a total HLD score of 9 points and found no evidence of impaction or other auto-qualifying condition. According to the x-rays and photographs, not all of Appellant's teeth had yet erupted. Dr. Perlmutter explained that it is therefore too early to determine whether any of the teeth would be impacted. He explained to Appellant's mother that Appellant is eligible for orthodontic re-evaluations every six months. If at her next evaluation her teeth have erupted and there is

evidence of an impaction, she would meet the criteria for coverage of braces. Absent such evidence, he had to uphold MassHealth's decision of non-payment of braces.

Appellant's mother appeared at the hearing and argued that the requested orthodontic treatment is necessary. She explained that the orthodontist was very specific in explaining what her daughter's situation was. Appellant's mother stated the orthodontist measured her with an HLD score of 28, which should qualify her for braces under MassHealth standards. She did not want to wait until her teeth got worse or the impaction to occur before getting started with treatment.

Findings of Fact

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

1. Appellant is a minor child and MassHealth recipient.
2. On September 9, 2022, Appellant's orthodontic provider sent MassHealth a PA request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670).
3. According to the PA request, the provider requested orthodontic treatment based on his examination of Appellant, which included findings of an "impaction where eruption is impeded but extraction is not indicated" and a total HLD score of 28 points.
4. In reviewing the PA request, a MassHealth dental consultant calculated a total HLD score of 9 points and found no evidence of impaction or other auto-qualifying condition.
5. On September 13, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment.
6. At hearing, the MassHealth representative – a board certified orthodontist - conducted a secondary review of Appellant's dental records and calculated an HLD score of 9 and found no evidence of impaction or other auto-qualifying condition.

Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, 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 includes the “Handicapping Labio-Lingual Deviations” (HLD) Index. This form must be completed and submitted by the requesting provider to establish medical necessity of the proposed treatment. The HLD Index is described as a quantitative, objective method for measuring the degree of a subject’s malocclusion. See *Dental Manual*, Appendix D, p. 1 (10/15/21).¹ Through this methodology, members are assigned a single score, based on a series of measurements that represent the degree to which their case deviates from normal alignment and occlusion. *Id.* MassHealth has determined that an HLD score of 22 points or higher signifies a handicapping malocclusion. See *id.* at 2. MassHealth will also authorize treatment without regard for the HLD numerical score, if the member has one single characteristic, which by itself is so severe, that it automatically qualifies him or her for braces. *Id.* These characteristics are listed in the HLD Index as “auto-qualifying” conditions, one of which is an “impaction where eruption is impeded but extraction is not indicated.” See *id.* (emphasis added). 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).²

In this case, Appellant’s provider cited two grounds for the requested orthodontic treatment: (1) that Appellant had a total HLD score of 28 points, (i.e. above the requisite 22 points); and (2) an auto-qualifying condition, i.e. an “impaction where eruption is impeded.” MassHealth, through its orthodontic consultants, reviewed Appellant’s treatment records multiple times. In each instance, the MassHealth reviewers came to a finding that Appellant had a total HLD score of 9 points and found no evidence of impaction. Dr. Perlmutter explained that an impaction cannot be identified until the tooth has erupted. As many of Appellant’s adult teeth had not yet reached the point of eruption, there was insufficient evidence to indicate she met this auto-qualifying condition. As noted above, MassHealth’s stringent standard of what constitutes a “handicapping malocclusion” is

¹ A copy of *Appendix D* of the MassHealth Dental Manual can be found at <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.

² Alternatively, providers may seek coverage of orthodontic treatment by submitting a medical necessity narrative written by a treating clinician. The narrative must sufficiently explain why comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate any of the following conditions: “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...” See *MassHealth Dental Manual*, Appendix D.

limited *only* to those cases with “*verified*” auto-qualifiers or HLD scores of 22 and above. Given the consistency in both MassHealth consultants’ measurements and findings, and in consideration of the notable discrepancy in HLD scores (i.e. 9 vs. 28), MassHealth was unable to “verify” either basis for the proposed treatment. Ultimately, Appellant did not demonstrate that MassHealth erred in denying the requested coverage for orthodontic treatment. See 130 CMR 420.431(C)(3).

The 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 1, MA