

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2207655
Decision Date:	12/29/2022	Hearing Date:	11/23/2022
Hearing Officer:	Patrick M. Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter


Interpreter:

N/A



*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:	PA-Dental Services
Decision Date:	12/29/2022	Hearing Date:	11/23/2022
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	
Hearing Location:	Remote (phone)	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 determination dated September 22, 2022, MassHealth denied the Appellant's application for prior approval for orthodontic treatment. (Ex. 1). The Appellant filed this appeal in a timely manner on October 11, 2022 (130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).


Action Taken by MassHealth

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

Issue

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

Summary of Evidence

The Appellant is currently a -year-old MassHealth member who was represented at hearing by her mother. MassHealth was represented by Dr. Carl Perlmutter, 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. Perlmutter testified that MassHealth 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.

The Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 18. Dr. Perlmutter testified that, on the HLD point scale, a score of 22 points is needed for approval. Dr. Perlmutter testified that he calculated a score of 10 on the HLD point scale after evaluating the submissions of the Appellant's orthodontic provider. DentaQuest's evaluation returned a score of 10 on the HLD point scale.

Regardless of point total, it is also possible to qualify for orthodontic treatment if the Appellant has a condition deemed an automatic qualifier. Here, the Appellant's provider did not find an automatic qualifier was present. Dr. Perlmutter testified he also did not find an automatic qualifier was present and evidence submitted by DentaQuest also shows, in their review, no automatic qualifier was found at this time.

Regardless of point total, it is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the Appellant. In order for the Appellant's particular conditions to be evaluated to see if those particular conditions support a medical necessity determination, evidence, in the form of a medical necessity narrative letter and supporting documentation, must be submitted by the Appellant's requesting provider. Generally, this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental. Here, the Appellant introduced a letter from March of 2022 from the Appellant's general dentist indicating that the Appellant has a cross bite, an open bite and due to the malocclusion, that the Appellant was breaking her teeth. However, the Appellant's orthodontic provider did not indicate a medical necessity narrative was submitted, nor was any additional supporting documentation submitted. Moreover, Dr. Perlmutter's testimony as well as DentaQuest's submitted evidence do not support a medical necessity determination at this time.

The Appellant's mother testified that she disagreed with the determination and that the information offered by Dr. Perlmutter's testimony was not new. The Appellant's mother testified that orthodontic treatment, including extractions, had been begun for the Appellant in the past, however, due to a negative interaction with a referred pediatric specialist, the Appellant

then attempted to avoid any dental and orthodontic appointments for almost a year. The Appellant's mother stated she had thought the treatment had already begun and braces for her top teeth had been affixed, and then suddenly MassHealth began denying her request for prior authorization. The Appellant's mother stated that MassHealth could have completed the treatment after it had begun, and that it would have been completed prior to the instant appeal. The Appellant's mother also stated her son did not have these same issues and was able to complete his orthodontic work. The Appellant's mother testified that the Appellant's general dentist was dismayed that MassHealth did not approve the Appellant's prior authorization request due to a score of 18, 4 points shy of the 22 point requirement. The Appellant's mother continued testifying, stating that her child's teeth break and that she swallows shards of teeth due to the severity of her crossbite. The Appellant's mother stated that it would have made sense to provide her daughter with the treatment 2 years ago. The Appellant's mother stated this process was unfair to her daughter, as well as to her personally. The Appellant's mother further testified that it is unfair that she cannot rely on her child receiving what she needs (braces) when she needs it.

Dr. Perlmutter testified that he never received the letter from the Appellant's general dentist from March of 2022. Dr. Perlmutter stated he understood the Appellant's mother's position, however, he was required to adhere to the Regulations. Dr. Perlmutter noted that the Appellant's own orthodontic provider calculated a score below 22 points on the submitted HLD form. Dr. Perlmutter indicated that he did not see any evidence of broken teeth in the documents and x-rays provided. Dr. Perlmutter further testified that he has been a dentist since 1964 and an orthodontist since 1970. Regarding the Anterior Open Bite, for which the Appellant's orthodontic provider calculated 8 points, Dr. Perlmutter testified that based on his review of the evidence presented, he could only calculate 2 points for an Anterior Open Bite. Regarding the Ectopic Eruption, about which the Appellant's orthodontic provider calculated 6 points, Dr. Perlmutter testified that based on his review of the evidence presented, he did not find any support for assigning any points for this item of the HLD form.

Findings of Fact

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

1. The Appellant is currently a [REDACTED]-year-old MassHealth member who had a request for prior approval for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1).
2. There is no evidence, in this administrative record, of an HLD score of 22 or more points. (Testimony; Ex. 7, p. 10, and 16).
3. The Appellant's provider submitted the request for prior approval, including an HLD form, with a HLD score of 18 points. (Ex. 7, p. 10).

4. DentaQuest's review of the HLD form returned a score of 10 points. (Testimony; Ex. 7, p. 16)
5. Dr. Perlmutter's review of the HLD form returned a score of 10 points. (Testimony; Ex. 7, p. 16)
6. No evidence was submitted that the Appellant suffered from any conditions that would render any automatic qualifiers applicable (Testimony; Ex. 7 p. 10, 16)
7. The Appellant's general dentist submitted a letter in March of 2022 stating that Appellant was breaking her teeth due to her cross bite, open bite and because of the malocclusion (Ex. 5)
8. Dr. Perlmutter found no evidence of broken teeth on the x-rays and documentation submitted (Testimony)
9. The Appellant's orthodontic provider submitted a letter from September 2022 stating, in part, that the Appellant did not qualify pursuant to the HLD score nor any autoqualifiers, but that she would benefit from orthodontic treatment due to anterior contact. (Exhibit 7, p. 8)
10. The Appellant's orthodontic provider did not submit any documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Testimony; Ex. 7, p. 11).

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 420.421 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

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>.

(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 7. 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 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). See also Fisch v. Board of Registration in Med., 437 Mass. 128, 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., 11 Mass. App. Ct. 333, 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, 45 Mass. App. Ct. 386, 390 (1998). On this record, the Appellant has not demonstrated the invalidity of the denial of preauthorization for braces. No automatic qualifier condition is present in this record. No HLD Index score meets or exceeds the threshold score of 22 in this record. No medical necessity narrative is properly requested or properly supported in this record as required by the Regulations.

In this case, regarding an automatic qualifier condition, the Appellant’s orthodontic provider did not indicate the presence of an automatic qualifier condition, and expressly stated that the Appellant did not qualify under an automatic qualifier condition. (Ex.7, p. 8, 10) DentaQuest did not calculate any presence of an automatic qualifier condition. (Ex. 7, p. 5) Dr. Perlmutter did not calculate any presence of an automatic qualifier condition. (Testimony) I find no automatic qualifier

condition is met in this case based on the evidence presented.

In this case, regarding the HLD Index score, MassHealth standard requires a current score of 22 on the HLD index. Here, the record is clear that none of the three reviewing dentists who completed an HLD schedule, including the Appellant's own orthodontic provider, calculated a score of 22 or more points required for approval pursuant to the MassHealth Regulations and the MassHealth Dental Program Manual. (Testimony; Ex. 7, p. 10, 16). I find the HLD Index score of 22 or more points is not met in this case based on the evidence presented.

In this case, regarding a medical necessity determination, the Appellant's general dentist submitted a letter from March of 2022 indicating that the Appellant was breaking her teeth. (Ex. 5) However, the Appellant's own orthodontic provider, who is the requesting provider, did not indicate a medical necessity narrative was submitted, nor was any additional supporting documentation submitted. (Ex. 7, p. 11) Moreover, Dr. Perlmutter testified although the Appellant may be able to document a medical necessity determination in the future that he did not observe evidence of broken pieces of teeth in the photographs submitted for this appeal and therefore he did not have the information to overturn the MassHealth denial. (Testimony)

In order to determine that comprehensive orthodontic treatment is medically necessary for the member, a medical necessity narrative letter and supporting documentation must be submitted by the requesting provider. Although the Appellant's general dentist submitted a letter, Dr. Perlmutter's testimony was based upon the photographs and documents submitted for this appeal. Additionally, the Appellant's own orthodontic provider did not submit evidence of a medical necessity, neither a narrative, nor documentation in support of a medical necessity narrative. (Ex. 7, p. 11) The Dental Manual explicitly requires a medical necessity narrative be submitted "by the requesting provider" and here the requesting provider did not submit a narrative. I find that a medical necessity narrative and information required to determine that orthodontic treatment is medically necessary as a separate basis for approval in this was not properly supported in this case as required by the Regulations and the Dental Manual.

The Appellant's mother's testimony as well as the Appellant's general dentist's March 2022 letter demonstrating that the Appellant would benefit from treatment unfortunately does not serve as a separate basis for approval at the current time pursuant to the MassHealth Regulations. For these reasons, I conclude that there is no basis pursuant to the MassHealth Regulations and the MassHealth Dental Program Manual to rescind or overrule the MassHealth decision.

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.

Patrick M. Grogan
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA