

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2207772
Decision Date:	1/3/2023	Hearing Date:	11/23/2022
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter, DMD



*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:	1/3/2023	Hearing Date:	11/23/2022
MassHealth's Rep.:	Carl Perlmutter, D.M.D.	Appellant's Rep.:	Mother
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 September 13, 2022, MassHealth informed the Appellant, a minor, that it denied his prior authorization request for comprehensive orthodontic treatment (See, Ex. 2; Ex. 4). The Appellant's mother filed a timely appeal on his behalf on September 28, 2022 (See, 130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (See, 130 CMR 610.032).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth correctly denied the Appellant's prior authorization request for comprehensive orthodontic treatment.

Summary of Evidence

At the 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 the testimony and documentary evidence presented by the MassHealth representative, Appellant is a minor child and MassHealth recipient. The Appellant's orthodontic provider sent MassHealth a prior authorization request on September 9, 2022, seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). (See, Ex. 4, p. 3). On September 13, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider did not support 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. MassHealth requires providers to complete the "Handicapping Labio-Lingual Deviations" (hereinafter "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 and the total of said scores represents the degree to which a case deviates from normal alignment and occlusion. MassHealth considers a malocclusion to be "physically handicapping" if the individual's HLD score totals at least 22 points or if the particular characteristic of the individual's 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, the Appellant's orthodontic provider submitted the request on behalf of the Appellant citing two (2) grounds for coverage of the requested treatment. First, the provider found that the Appellant had two (2) posterior impactions in his lower second molars (otherwise known as twelve (12) year molars) to which the provider calculated 6 points. Secondly, the provider calculated a total numerical score of 24 points, which included *inter alia*, six (6) points for posterior impactions and ten (10) points for anterior crowding exceeding 3.5 millimeters in the upper and lower arches. When a MassHealth dental consultant reviewed the submission, the consultant calculated a total HLD score of 15, including five (5) points for anterior crowding and excluding points for posterior impactions. Dr. Perlmutter testified that he performed a secondary review of the prior authorization documents that were submitted, including x-rays and facial photographs, and calculated a total numerical score of nineteen (19) points. He explained that his calculations included ten (10) points for anterior crowding, however, the six (6) points for posterior impactions that the Appellant's orthodontic provider calculated could not be included because the Appellant's second molars have not erupted yet. Thus, while it is a possibility that the Appellant's second molars may become impacted, it is too early to tell.

The Appellant's mother testified that the Appellant is having a hard time flossing. Moreover, the Appellant mother testified that the Appellant was brought to two (2) different orthodontists, both of which stated that the Appellant needs braces.

Findings of Fact

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

1. The Appellant is a minor child and MassHealth recipient. (Testimony).
2. On September 9, 2022, the Appellant's orthodontic provider sent MassHealth a prior authorization request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). (Ex. 4, p. 3).
3. Accordingly, the Appellant's orthodontic provider requested said treatment based on his examination of the Appellant, which included, *inter alia*, findings of the following: six (6) points for posterior impactions in the lower second molars, ten (10) points for anterior crowding exceeding 3.5 millimeters in the upper and lower arches and a total HLD score of 24 points. (Ex. 4, p. 9).
4. Upon review of the provider's request, a MassHealth dental consultant calculated a total HLD score of 15 points, including five (5) points for interior crowding and excluding posterior impactions in the total score. (Ex. 4, p. 15).
5. On September 13, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider did not support medical necessity for the proposed treatment. (Testimony, Ex. 4, pp. 3-5).
6. In reviewing the provider's request, x-rays and facial photographs, Dr. Perlmutter made the following HLD findings: ten (10) points for anterior crowding, however, the six (6) points for posterior impactions that the Appellant's orthodontic provider calculated could not be included because the Appellant's second molars have not erupted yet. (Testimony).

Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, in pertinent 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) (**Bolded**, 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, which must be completed by the requesting provider and submitted with the prior authorization request 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. 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 handicapping malocclusion. *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 “impactions where **eruption is impeded** (excluding third molars).” (**Bolded**, emphasis added). The HLD form specifically states that MassHealth will authorize treatment only for “**cases with verified auto-qualifiers or verified scores of 22 and above.**” *See, id.* (**Bolded**, emphasis added).

MassHealth also allows providers to seek coverage of orthodontic treatment through submitting a medical necessity narrative by a treating clinician. The narrative must sufficiently explain why comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate a health-related condition caused by the malocclusion. Examples of such conditions are further detailed in Appendix D, and include mental, emotional, and behavioral conditions, nutritional deficiencies; or a diagnosed speech or language pathology.¹ *Id.*

In this case, the Appellant’s sought coverage for orthodontic treatment on two grounds. As to the first basis, the provider indicated that the Appellant had two (2) posterior impactions in his lower second molars to which he credited six (6) points in his overall score. However, Dr Perlmutter testified that after his careful review of the ex-rays and facial photographs, the posterior impactions in the Appellant’s lower second molars could not be counted yet because said second molars have not erupted. Indeed, while impactions (excluding third molars) that are impeding eruption are deemed an auto-qualifying condition, here, it has not occurred.²

The second grounds for coverage, as indicated by the Appellant’s provider, was based on the total HLD score given to the Appellant of 24 points, which includes the 6 points for posterior impactions discussed above. Again, Dr. Perlmutter testified that said impactions could not be counted and found an HLD score of 19. The review by DentaQuest obtained a score of 15. As noted above, MassHealth has a rigid standard on what constitutes a “handicapping malocclusion” and limits coverage *only* for cases with “verified” auto-qualifiers or HLD scores of 22 and above.

¹ Under Appendix D of the Dental Manual the “medical necessity narrative” must show that the treatment will correct or significantly ameliorate “(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. The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. Additional submission requirements are outlined in Appendix D when the justification for medical necessity involves a mental, emotional or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider. *See, MassHealth Dental Manual*, Appendix D.

² Moreover, was this not checked-off by the Appellant’s orthodontist as an “observed” condition in the prior authorization paperwork submitted on behalf of the Appellant.

Here, MassHealth was unable to “verify” a qualifying HLD score through the documentation submitted by the Appellant’s provider. While the Appellant’s mother testified that two (2) orthodontists stated that the Appellant needs braces, unfortunately this argument does not serve as a separate basis for approval. The Appellant has not demonstrated that MassHealth erred in denying the requested coverage for orthodontic treatment.³ 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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

³ The Appellant can have his provider submit a new prior authorization request to MassHealth every six months upon re-examination until he reaches the age of 21.