

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2207875
Decision Date:	12/13/2022	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:	12/13/2022	Hearing Date:	11/23/2022
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	[REDACTED]
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 notice dated October 17, 2022, MassHealth denied the Appellant's application for prior approval for full orthodontic treatment. (Ex. 1). The Appellant filed this appeal in a timely manner on October 17, 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 [REDACTED]-year-old MassHealth member who was represented at hearing by his 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 dental/orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 15. 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 14 on the HLD point scale after evaluating the submissions of the Appellant. DentaQuest's evaluation returned a score of 13 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 find an automatic qualifier was present, specifically impactions where eruption is impeded but extraction is not indicated (excluding third molars). Dr. Perlmutter testified he also did not find an automatic qualifier was present because it was too early to ascertain whether eruption is impeded. Dr. Perlmutter testified that the Appellant had two upper bicuspids still under the gum that may be impacted, but that it was too early to determine whether they would be impacted. 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's orthodontic provider did not indicate a medical necessity narrative was submitted, nor was any additional supporting documentation submitted. Moreover, Dr. Perlmutter's testimony and DentaQuest's submitted evidence do not support a medical necessity determination at this time,

The Appellant's mother testified that the Appellant had visited his dentist the Saturday before the hearing and additional x-rays were taken. The Appellant's mother stated that she contacted MassHealth and submitted the new x-rays as well as an updated letter from the

Appellant's general dentist 2 days prior to the hearing. The Appellant's mother stated she was assured by a representative of MassHealth that the evidence would be considered, despite that fact that the instant appeal is the subject of July 15, 2022 submission, including x-rays, by the Appellant's orthodontic provider. In response, Dr. Perlmutter testified that MassHealth and Dr. Perlmutter himself would require time to reevaluate the Appellant's new evidence, including the submission of new x-rays, and therefore information from a dental visit a few days prior to this hearing could not be introduced in this hearing which is the subject of the October 14, 2022 denial after review of the application and evidence included from July 15, 2022. The Notice of Hearing (Exhibit 3) explicitly states "if your appeal concerns a dental issue, remind your dentist that dental X-Rays must be present in time for the hearing. X-Rays should be mailed" to DentaQuest. No further documentary submission from the dental appointment a few days prior to the November 23, 2022 hearing were received by Dr. Perlmutter, nor this Hearing Officer.

Dr. Perlmutter testified that he has been a dentist since 1964 and an orthodontist since 1970 and he has been specially trained to take part in these evaluations. Dr. Perlmutter stated that the Appellant's orthodontic provider, Dentaquest, and Dr. Perlmutter's own review of the HLD score all concurred that the Appellant's scores do not support a physically handicapping bite score of 22 as required by the MassHealth Regulations, but that the Appellant could return to the orthodontic provider for reevaluation six months after the Appellant's visit with the orthodontic provider which is the basis for the instant appeal.

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. 5, p. 5, 10, and 16).
3. The Appellant's provider submitted the request for prior approval, including an HLD form, with a HLD score of 15 points. (Ex. 5, p. 9).
4. DentaQuest's review of the HLD form returned a score of 13 points. (Testimony; Ex. 5, p. 16)
5. Dr. Perlmutter's review of the HLD form returned a score of 14 points. (Testimony)
6. The Appellant's orthodontic provider did find an automatic qualifier was present, specifically impactions where eruption is impeded but extraction is not indicated (excluding third molars (Ex. 5, p. 9)

7. Dr. Perlmutter has been a dentist since 1964 and an orthodontist since 1970. (Testimony)
8. Dr. Perlmutter did not find an automatic qualifier was present because it was too early to ascertain whether eruption is impeded. (Testimony).
9. Dentaquest did not find an automatic qualifier was present. (Ex. 5, p. 9)
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. 5, p. 10).

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

(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 5. As indicated by the paper record, the MassHealth testimony, and the relevant

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>.

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.

Here, the Appellant’s provider did find an automatic qualifier was present, specifically impactions where eruption is impeded but extraction is not indicated (excluding third molars). (Ex.5, p.9) Dr. Perlmutter did not find an automatic qualifier was present because it was too early to ascertain whether eruption is impeded. Dr. Perlmutter, who has been a dentist since 1964 and an orthodontist since 1970, observed that the Appellant had two upper bicuspids still under the gum that may be impacted in the future, but that it was too early to determine whether they would be impacted at this point in time. Evidence submitted by DentaQuest also shows, in their review, no automatic qualifier was found at this time. I find Dr. Perlmutter’s testimony regarding the lack of an automatic qualifying condition at this time persuasive and supported by MassHealth’s determination that no automatic qualifier condition exists at the time of the hearing based upon the July 15, 2022 x-rays and submission.

In this case, the Appellant’s orthodontic provider did not indicate the presence of medical necessity and did not include a separate set of medical necessity narratives and documentation to justify a medical necessity determination for the request for braces. (Ex. 5, p. 10).

Therefore, a review the HLD scores is required to ascertain if Appellant’s bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. In this case, the record is clear that none of the three reviewing dentists who completed an HLD review, 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. 5, p. 9, 16)

The Appellant’s mother’s testimony demonstrating that the Appellant would benefit from the 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

[REDACTED]