

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2208424

Decision Date: 12/28/2022

Hearing Date: 12/14/2022

Hearing Officer: Marc Tonaszuck

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter, 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:	Orthodontic Services
Decision Date:	12/28/2022	Hearing Date:	12/14/2022
MassHealth's Rep.:	Dr. Carl Perlmutter, 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 10/13/2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). On 11/14/2022, a timely appeal was filed on the appellant's behalf (see 130 CMR 610.015(B) and Exhibit 2)¹. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

¹ 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 at hearing via telephone. MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 10/12/2022. 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 23, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	7	1	7
Overbite in mm	6	1	6
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	1	3	3
Anterior Crowding	Maxilla: 0 Mandible: X	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
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			23

The appellant's orthodontist did not identify any automatic qualifying condition, nor did he

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 15. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	3	1	3
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: 0 Mandible: X	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
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			16

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 10/13/2022.

At hearing, the MassHealth orthodontist testified that the appellant has an HLD score of 17, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	4	1	4
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: 0 Mandible: X	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior	2	1	2

spacing)			
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

The MassHealth orthodontist stated that his measurements of the appellant's HLD Index score is essentially the same as the treating orthodontist, except in the area of ectopic eruptions. The provider noted that he observed one instance of an ectopic eruption and score 3 points in this area. The MassHealth orthodontist cited to the HLD Index score sheet instructions that state, "if anterior crowding also exists in the same arch, score the condition that scores the most points. DO NOT COUNT BOTH CONDITIONS" (emphasis in original). In the appellant's case, the ectopic eruption is one of the appellant's anterior teeth on the mandibular arch. It was counted as part of the anterior crowding and therefore cannot be counted twice, per the instructions on the HLD Index form. Dr. Perlmutter stated that the appellant's treating orthodontist did not follow the scoring rules and his score must be reduced by 3 points in order to be accurate. Without the 3 points for ectopic eruption, the appellant's HLD Index score is below the necessary 22 points for MassHealth payment of the braces. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified that MassHealth should accept the treating orthodontist's score. This is the second time a request for braces was submitted and denied by MassHealth. The mother testified that the appellant cannot close her mouth and she has difficulty when she chews meat.

Findings of Fact

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

1. On 10/12/2022, 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 23 points. He did not indicate that any automatic qualifying conditions exist (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).

5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15 points, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony; Exhibit 4).
7. On 10/13/2022, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On 11/14/2022, the appellant filed a timely appeal of the denial (Exhibit 2).
9. At hearing on 12/14/2022, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 17 (Testimony; Exhibits 3 and 4).
10. The appellant has at least 3.5 mm of crowding between the anterior six teeth on the mandibular arch (Testimony; Exhibit 4).
11. The appellant's treating orthodontist scored one instance (3 points) for an ectopic eruption of an anterior tooth on the mandibular arch (Testimony; Exhibit 4).
11. A member cannot score anterior crowding and ectopic eruptions on the same arch unless the ectopic eruption is a posterior tooth (Testimony; Exhibit 4).
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, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm involving 4 or more teeth).

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 cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm involving 4 or more teeth.

The appellant’s provider asserted that the appellant has an HLD score of 23. After reviewing the provider’s submission, MassHealth found an HLD score of 15 and no automatic qualifying condition. At hearing, upon review of the prior authorization documents, a different orthodontic consultant found an HLD score of 17 and no automatic qualifying condition.

The main difference between the appellant’s provider’s score and that of the MassHealth orthodontist’s is the scoring of the anterior crowding and ectopic eruption. The appellant’s provider scored 3 points for 1 instance of an ectopic eruption plus crowding on the mandibular arch (5 points). The MassHealth orthodontist testified that the appellant does have at least 3.5 mm of anterior crowding in the anterior region of the mandibular arch. The appellant’s provider correctly scored 5 points for anterior crowding. However, the appellant’s orthodontist also scored 3 points for an ectopic eruption of an anterior tooth on the mandibular arch. The MassHealth orthodontist testified that the appellant’s malocclusion cannot be scored for both crowding and an ectopic eruption. The instructions are clear to that effect. As a result, the provider’s score must be reduced by 3 points to bring the score into compliance with the instructions on the HLD index. With the remaining scores, the appellant’s HLD Index score does not meet the required 22 points for MassHealth payment of the braces. The MassHealth orthodontist’s score is supported by the photographs. Dr. Perlmutter, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant’s representative.

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. Additionally, there is no evidence that the appellant’s alleged difficulty chewing and closing her mouth is in any way associated with her request for comprehensive 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, 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 2, MA