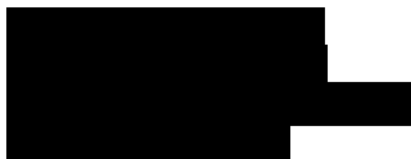


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2208721

Decision Date: 1/20/2023

Hearing Date: 12/28/2022

Hearing Officer: Marc Tonaszuck

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter, DentaQuest

Interpreter: Spanish



*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:	Orthodontics
Decision Date:	1/20/2023	Hearing Date:	12/28/2022
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 Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction¹

Through a notice dated 10/31/2022 MassHealth informed the appellant that it denied his request for prior authorization of comprehensive orthodontic treatment (130 CMR 420.431(C); Exhibit 1). The appellant filed a timely appeal on 11/23/2022 and, as a minor appellant, was represented by his mother in these proceedings (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (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

Did MassHealth correctly determined that the appellant is not eligible for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

Summary of Evidence

The MassHealth orthodontic consultant from DentaQuest, an orthodontist licensed in Massachusetts, testified that on 10/28/2022 the appellant's provider, Dr. Horowitz, submitted to MassHealth on the appellant's behalf a prior authorization (PA) for comprehensive orthodontic treatment. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. The request was considered after review of the oral photographs, X-rays, and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score, or to find an automatically qualifying condition. A severe and handicapping malocclusion typically reflects a minimum score of 22 or an auto-qualifying condition. MassHealth submitted into evidence: Appellant's PA packet; photographs; X-rays; HLD MassHealth Form; and the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had one instance of an "automatic qualifier," whereby MassHealth approves orthodontic treatment without calculating an HLD score. Specifically, Dr. Horowitz indicated that the appellant has a deep impinging overbite. He then proceeded to calculate the following HLD Index score:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
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: Mandible:	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	12	1	12
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	1	3	3
Total HLD Score			23

Dr. Horowitz indicated on the HLD Index form that he was not including a medical necessity narrative.

The DentaQuest orthodontist testified that he reviewed the appellant's photographs, X-rays and all the other documentation that was provided to MassHealth with the prior authorization request from the appellant's orthodontist. According to the X-ray and photographs, the appellant does not have a deep impinging overbite, as defined by the MassHealth guidelines. The DentaQuest representative stated that the instructions included with the HLD worksheet state that the deep impinging overbite is characterized by "evidence of occlusal contact in the opposing soft tissue." In this case, there is an X-ray showing the side view of the appellant's malocclusion. He testified that on that X-ray it is clear that the bottom anterior teeth come into contact with the back of the top anterior teeth when the appellant's mouth is closed. Because the bottom anterior teeth do not come into contact with the tissue behind the anterior front teeth, the appellant's malocclusion does not meet the definition of an impinging overbite.

Secondly, the DentaQuest representative testified that his review of the appellant's materials does not show an HLD score of 22 or above or any support for the "medical necessity" for comprehensive orthodontics. Dr. Perlmuter's measurements are as follows:

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

Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	1	3	3
Total HLD Score			17

The MassHealth orthodontist testified that the appellant's orthodontist calculated a labio-lingual spread to be 12 mm. Dr. Perlmutter testified that the HLD Index included instructions stating that a labio-lingual spread is the number of mm of spacing between the anterior (front) six teeth on each arch. In this case, Dr. Perlmutter testified that the labio-lingual spread is 6 mm, which equates to a score of 6. Accordingly, appellant's orthodontist's score must be reduced by 6, to an HLD Index score of 17. Because the HLD Index score is not 22 or over, and without the above automatic qualifying condition, the appellant's malocclusion does not meet the standards for MassHealth payment.

The appellant's mother appeared by telephone and testified with the assistance of a Spanish-language interpreter. She stated that the appellant does not have medical problems related to his bite or his teeth. His dentist told the mother that he needs braces, so she brought the appellant to the orthodontist. She stated she cannot afford to pay for the braces.

Findings of Fact

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

1. The appellant is under 21 years of age (Testimony).
2. On 10/28/2022, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. On 10/31/2022, MassHealth denied the appellant's prior authorization request (Exhibit 1).
4. On 11/23/2022, a timely fair hearing request was filed on the appellant's behalf (Exhibit 2).
5. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
6. MassHealth employs a system of comparative measurements known as the HLD Index as a determinant of a severe and handicapping malocclusion.

7. An automatic qualifying condition on the HLD Index is a severe and handicapping malocclusion.
8. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
9. The appellant's orthodontic provider calculated an HLD Index score of 23, scoring 12 mm of labio-lingual Spread.
10. The appellant's orthodontic provider checked the boxes on the HLD worksheet indicating that the appellant has a deep impinging overbite.
11. A deep impinging overbite, as defined by the HLD Index, is an automatic qualifying condition.
12. A deep impinging overbite is characterized by "evidence of occlusal contact in the opposing soft tissue."
13. Using measurements taken from the appellant's oral photographs, X-rays and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that at the time the prior authorization request was submitted, the appellant did not have a deep impinging overbite or an HLD score of 22 or above.
14. Appellant has 6 mm of total spacing between the six anterior teeth on both arches.
15. The DentaQuest orthodontist concluded that the appellant does not have a severe and handicapping malocclusion.
16. Appellant's orthodontists checked "no" when asked if he was submitting a medical necessity narrative with the prior authorization request.

Analysis and Conclusions of Law

Regulation 130 CMR 420.431(C) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the

Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index, a minimum HLD index score of 22, or a medical necessity narrative.

In this case, the appellant's treating orthodontist calculated an overall HLD Index score of 23 and he did not attach a medical necessity narrative. He checked off an automatic qualifying condition, to wit, a deep impinging overbite. A deep impinging overbite, if verified, is a MassHealth approval even without an HLD Index score of 22.

The MassHealth representative testified credibly how the appellant's treating orthodontist erred in identifying the automatic qualifying situation. He testified credibly and under oath that there was no evidence a deep impinging overbite. He indicated to the hearing officer on the HLD Index form the instructions printed next to the check box state there needs to be "evidence of occlusal contact in the opposing soft tissue" for this condition to exist as it is applied to the HLD guidelines. The appellant's X-ray submitted with the prior authorization request shows that the appellant's bottom anterior teeth come into contact with the back of the anterior top teeth, not the tissue behind the top teeth, when the appellant closes his mouth. Additionally, there is no other evidence that the appellant's bottom front teeth come into contact with the tissue behind the top front teeth. Therefore I credit the DentaQuest testimony that there is no evidence of a deep impinging overbite, as defined by the MassHealth guidelines.

Likewise, the DentaQuest representative testified credibly that the appellant does not have an HLD score of 22 or above. MassHealth's HLD Index score is identical to the treating orthodontist's, except in the score of the labio-lingual spread. The treating orthodontist indicated that the appellant has 12 mm of spacing between the six anterior teeth on both arches, scoring 12 points. With the 12 points for labio-lingual spread, the appellant's orthodontist calculated a total HLD Index score of 23. Instead of 12 mm, MassHealth measured 6 mm of spacing amount the same teeth, scoring 6 points. The MassHealth orthodontist demonstrated to the hearing officer, using photographs, the measurements he made, and he was available for questioning by the hearing officer and cross-examination by the appellant's representative. There was no further explanation by the appellant's representative in support of the 12 mm measurements. As a result, DentaQuest's measurements are supported by the evidence in the hearing file. The appellant's HLD Index Score is 17. Accordingly, there is not a combination of characteristics of the appellant's malocclusions that measure 22 or above on the HLD index score.

The appellant does not have a severe and handicapping malocclusion as defined by MassHealth regulations and guidelines, nor is there any documentation to show medical necessity for the orthodontic treatment. Appellant's mother has not shown by the requisite quantum of proof that the appellant's comprehensive orthodontic treatment is medically necessary. MassHealth correctly denied the prior authorization request for orthodontic treatment. This appeal is therefore 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