

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|----------------|------------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2208782 |
| Decision Date: | 2/3/2023 | Hearing Date: | 12/28/2022 |
| Hearing Officer: | Marc Tonaszuck | Record Open to: | 01/20/2023 |

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: | Orthodontics |
| Decision Date: | 2/3/2023 | 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 Chapter 118E, Chapter 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 11/09/2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf¹ on 11/28/2022 (see 130 CMR 610.015(B) and Exhibit 2)². Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

A fair hearing took place on 12/28/2022, at which time the appellant requested an opportunity to present additional documentation to the hearing record. Her request was granted and the record remained open until 01/13/2023 for her submission and until 01/20/2023 for MassHealth/DentaQuest's response (Exhibits 3 and 5). The appellant made no submission during the record open period.

¹ The appellant is a minor child represented in these proceedings by her mother.

² 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. MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. All parties appeared at the fair hearing by telephone.

On 10/26/2022, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires as a condition for approval a total score of 22 or higher or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has a condition which is an automatic qualifying condition, specifically, that she has an overjet greater than 9 mm. The treating orthodontist did not find any other of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The providing orthodontist also did not document any measurements on the HLD Form.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 11. The DentaQuest HLD Form reflects the following scores:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|---|---------------------------|--------------------------|----------------|
| Overjet in mm | 6 | 1 | 6 |
| Overbite in mm | 2 | 1 | 2 |
| 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: 0 | Flat score of 5 for each | 0 |

| | | | |
|--|---|--------------------|-----------|
| Labio-Lingual Spread, in mm (anterior spacing) | 3 | 1 | 3 |
| 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 | | | 11 |

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 11/09/2022.

At hearing, Dr. Perlmutter testified that the appellant has an overjet, but it is not 9 mm. He continued that the photographs provided by Dr. Feldman made it impossible to accurately measure the overjet, but that it is clearly much less than 9 mm. Dr. Perlmutter testified that he would need additional dental/orthodontic records from Dr. Feldman to show that overjet is at least 9 mm; specifically, MassHealth needs all photos of dental features (5) showing teeth and bite. He also testified that there are no other automatic qualifying conditions. He concluded that his measurements do not support an HLD score of 22. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified that the appellant's mouth "makes noise," that she "gets bullied because her teeth stick out a lot," and the appellant does not want to have her photograph taken because she is embarrassed by her teeth. The mother testified that the appellant "lisps," but that the mother has not sought speech therapy for her.

The appellant's mother requested an opportunity to provide additional documentation in support of her request for orthodontic treatment. Her request was granted, and the record remained open for her submission until 01/13/2023. The appellant's mother did not make a submission during the record open period.

Findings of Fact

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

1. The appellant is a MassHealth member who is under 21 years of age.
2. On 10/26/2022, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
3. The provider completed a Handicapping Labio-Lingual Deviations Form for the

appellant, scoring for an overjet greater than 9 mm., which is an automatic qualifying condition (Exhibit 4). The provider did not otherwise calculate and HLD score.

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 11, 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 or when there exists an automatic qualifying condition (Testimony).
7. On 11/09/2022, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On 11/28/2022, the appellant filed a timely appeal of the denial (Exhibit 2).
9. At hearing on 12/28/2022, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score that did not reach 22. He further found that he could not verify without additional photographs that the appellant's overjet is over 9 mm (Testimony).
10. The appellant's mother requested an opportunity to provide the requested photographs to the hearing officer during a record open period.
11. The appellant's mother did not provide any documentation during the record open period.
12. The appellant's HLD score is below 22.
13. The appellant's overjet is less than 9 mm.
14. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate, severe maxillary anterior crowding greater than 8 mm, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm).

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 a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant’s provider documented that the appellant has an overjet greater than 9 mm, which is an automatic qualifying condition. The provider did not otherwise provide an HLD Index score. Upon receipt of the PA request and after reviewing the provider’s submission, MassHealth found an HLD score of 11 and no automatic qualifying condition. DentaQuest measured an overjet of 6 mm. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found no automatic qualifying condition. He also did not find an HLD Index score of 22.

Since the appellant’s orthodontic provider did not complete the HLD Index form with measurements of the appellant’s malocclusion, the only issue is whether the appellant has an overjet greater than 9 mm. The provider provided photographs and X-rays with the PA packet; however, the MassHealth orthodontist testified although that the appellant has an overjet, that the documentation made it impossible to accurately measure the overjet. To the best of his estimation the overjet is approximately 6 mm. He asked if the appellant’s mother could get additional documentation from the treating orthodontist so that he could make an accurate measurement. The appellant’s mother agreed; however, she did not provide the requested documentation (or any documentation for that matter) during the record open period.

I credit Dr. Perlmutter’s testimony and professional opinion. He explained his scores to the appellant’s mother and to the hearing officer, referencing the photographs of the appellant’s teeth that were included with the PA request. 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. 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, MassHealth correctly denied this request for comprehensive orthodontic services and 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 1, MA