

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2209053
Decision Date:	4/5/2023	Hearing Date:	01/09/2023
Hearing Officer:	Thomas Doyle	Record Open to:	2/28/23

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan, D.M.D.

Interpreter:



*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:	4/5/2023	Hearing Date:	01/09/2023
MassHealth's Rep.:	Dr. Harold Kaplan	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 November 14, 2022, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner.¹ (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied 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, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented by Dr. Harold Kaplan, a board-certified orthodontist and

¹ The mother of appellant did not date the request for hearing form. However, the form is date stamped with a fax time of December 5, 2022 and is therefore timely.

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. Kaplan testified that the 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.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. (Ex. 4, pp. 5-13). Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 30. (Ex. 4, p. 8). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he only found a score of 15 on the scale. (Testimony). DentaQuest reached a score of 15. (Ex. 4, p. 14).

Regardless of point total, it is also possible to qualify for orthodontic treatment if appellant has a condition deemed an automatic qualifier. No one, including appellant's own orthodontist, found an auto qualifying condition existed.

Mother of appellant testified her son is bullied and drools. The mother also said her son is autistic and has various workers and therapists who care for him. The record was left open for the mother to offer a letter from one of appellant's therapists to show medical necessity for orthodontic treatment. Nothing was received from the mother, despite the record open period being extended.

Findings of Fact

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

1. Appellant is a minor male MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 2-4).
2. Neither the initial DentaQuest review nor the review testified to by Dr. Kaplan found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 14; Testimony).
3. Appellant's provider submitted an HLD score of 30 points. (Ex. 4, p. 8).
4. Neither Dr. Kaplan, DentaQuest or appellant's orthodontist found an auto qualifier present. (Testimony; Ex 4, pp. 8, 14).

5. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 9; Testimony).
6. The record was left open initially until February 6, 2023 and ultimately until February 28, 2023 for the mother of appellant to obtain letters from therapists treating appellant.
7. No letters were received from the mother.

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.,² 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 4. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three

² 130 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>.

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.

In this case, appellant’s orthodontist did not submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces. (Ex. 4, p. 9). Nor did appellant’s orthodontist indicate the presence of an automatic qualifying condition. (Ex. 4, p. 8).

That leaves only a need to review the HLD scores to see 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. (Testimony). In this case, appellant’s orthodontic provider found a score of 30 points on the HLD scale. (Ex. 4, p. 8). DentaQuest found a score of 15 on the HLD scale. (Ex. 4, p. 14). Dr. Kaplan also calculated an HLD score of 15. (Testimony).

I find Dr. Kaplan’s explanation of his process to be very thorough. He testified he was very careful in his review and has 46 years of experience. (Testimony). Dr. Kaplan is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that the opinion of the orthodontist present at hearing to be persuasive and plausible. The fact that Dr. Kaplan and DentaQuest each reached a score of 15 on the HLD scale gives further credence to Dr. Kaplan’s opinion. Appellant’s orthodontist’s score of 30 on the HLD scale is so considerably different from the view of two other orthodontists who reviewed appellant’s case that it leads this hearing office to give it minimal weight.

Mother of appellant testified he is autistic. The record was left open for appellant to obtain letters from therapists the mother testified were treating appellant. The record was initially left open until February 6, 2023. (Ex. 6). Nothing was received by February 6, 2023. This hearing officer emailed the mother on February 14, 2023, asking about the status of any letters potentially showing any medical necessity. (Ex. 5, p. 1).³ There was no reply to this email. This hearing officer again emailed the mother of appellant on February 21, 2023, asking about any letters from therapists and informing her I was keeping the record open until February 28, 2023 for any letters. (Ex. 5, p. 1). There was no response to this email. On March 6, 2023, this hearing officer called the mother and emailed her. (Ex. 5, p. 3). There was no response to the email or voice call.

The appeal is denied.

³ Initially this hearing officer misheard the mother when she was giving me her email address at hearing but subsequently came to know the mother’s correct email address where all further emails were sent.

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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA