

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Dismissed	Appeal Number:	2209365
Decision Date:	2/6/2023	Hearing Date:	01/25/2023
Hearing Officer:	Patricia Mullen	Record Open to:	02/25/2023

Appearance for Appellant:



Appearance for MassHealth:

Dr. David Cabeceiras, 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:	Dismissed	Issue:	Orthodontic treatment
Decision Date:	2/6/2023	Hearing Date:	01/25/2023
MassHealth's Rep.:	Dr. David Cabeceiras, DentaQuest	Appellant's Rep.:	Mother
Hearing Location:	Quincy		

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 4, 2022, MassHealth denied the appellant's request for prior authorization for orthodontic treatment because MassHealth determined that the appellant does not have a handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on December 19, 2022¹. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's request for prior authorization for coverage of orthodontic treatment.

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.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

Summary of Evidence

The appellant is a child and appeared at the hearing with her mother. MassHealth was represented at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on September 30, 2022. (Exhibit 3, p. 3). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the appellant's mouth. (Exhibit 3) The appellant's orthodontist indicated on the HLD form that no medical necessity narrative was being submitted. (Exhibit 3, p. 8).

The MassHealth representative testified MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. The MassHealth representative stated that the HLD form lists 7 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. If a member has any of the 7 autoqualifiers or a HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Testimony, exhibit 3). The 7 autoqualifiers are a cleft palate, deep impinging overbite with severe soft tissue damage, anterior impactions, severe traumatic deviations, overjet greater than 9 millimeters, reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters. (Exhibit 3, p. 7). If any of these are present, the request for orthodontic treatment is approved. (Exhibit 3, testimony). If none of these are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread or anterior spacing, posterior unilateral crossbite, and posterior impactions or congenitally missing posterior teeth, and gives each measurement a value based on the calculation worksheet on the HLD Form. (Exhibit 3, p. 7, testimony).

The appellant's orthodontist indicated that the appellant has the autoqualifier of lateral open bite of 2 millimeters or more in 4 or more teeth per arch. (Exhibit 3, p. 7). The appellant's orthodontist calculated a HLD score of 16. (Exhibit 3, p. 7). Based on a review of the photographs of the appellant's mouth, MassHealth/DentaQuest calculated a HLD score of 13 measuring 3 millimeters for overjet, 3 millimeters for overbite, 5 points for crowding in the upper anterior teeth, and 2 points for labio-lingual spread. (Exhibit 3, p. 13). DentaQuest determined that the appellant did not have the autoqualifier of lateral open bite.

The MassHealth representative examined the appellant at the hearing and measured the bite. The MassHealth representative testified that the appellant's bite has an opening but the teeth are

touching somewhat and there is not 2 millimeters of opening for 4 teeth in an arch.

The MassHealth representative stated that the appellant would benefit from orthodontic treatment, but the issue here is not whether the appellant needs braces, but rather whether she meets the criteria under the regulations for MassHealth to cover the orthodontic treatment. The MassHealth representative stated that because there is no evidence of a handicapping malocclusion, MassHealth will not cover the orthodontic treatment at this time.

The appellant's mother stated that the appellant has a problem speaking due to the opening in her bite. The appellant's mother noted that the appellant's tongue sticks out through the opening in her side bite resulting in constant biting of the appellant's tongue. The appellant's mother stated that the appellant's tongue is sore and swollen from the bites. The appellant's mother stated that the appellant's teeth are affecting her ability to read aloud and she has seen a speech pathologist. The appellant's mother stated further that the appellant is teased and bullied due to her speech and she will not participate in class.

The appellant's mother submitted a report from the appellant's speech pathologist. (Exhibit 6). The MassHealth representative reviewed the report and asked if the speech pathologist could submit a note stating the orthodontic treatment will alleviate the speech and biting problems. The record was left open until February 25, 2023 to give the appellant's mother the opportunity to obtain such note. (Exhibit 7). The MassHealth representative stated that he would also attempt to reach the appellant's speech pathologist and discuss the case with her.

Subsequent to the hearing, during the record open period, the MassHealth representative informed the hearing officer that he spoke with the appellant's speech pathologist and he was overturning the MassHealth denial on the basis of medical necessity in a medical narrative. (Exhibit 8). The hearing officer emailed the appellant's mother to inform her that the request for prior authorization for orthodontic treatment was now approved by MassHealth. (Exhibit 9). The hearing officer asked the appellant's mother's permission to sign an adjustment withdrawal form, but received no response from the appellant's mother. (Exhibit 9).

Findings of Fact

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

1. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these along with photographs of the appellant's mouth to DentaQuest.
3. MassHealth/DentaQuest calculated an HLD score of 13 after examining the appellant's photographs and x-ray.

4. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion.
5. The appellant does not have a lateral open bite with 2 or more millimeters of open bite in 4 or more teeth in an arch.
6. MassHealth approved the appellant's request for prior authorization for comprehensive orthodontic treatment based on medical necessity narrative.

Analysis and Conclusions of Law

Grounds for Appeal

(A) Applicants and members have a right to request a fair hearing for any of the following reasons:...

- (1) denial of an application or request for assistance, or the right to apply or reapply for such assistance;...

(130 CMR 610.032(A)(1)).

BOH will dismiss a request for a hearing when...

- (8) BOH learns of an adjustment or action that resolves all of the issues in dispute between the parties;...

(130 CMR 610.035(A)(8)).

After the hearing, MassHealth approved in full the appellant's provider's request for prior authorization for comprehensive orthodontic treatment based on a medical necessity narrative. Because the appeal issue has resolved in favor of the appellant, there is nothing left in dispute before the hearing officer. This appeal is dismissed pursuant to 130 CMR 610.032 and 610.035.

Order for MassHealth

If it has not already done so, approve the appellant's provider's request for prior authorization for comprehensive orthodontic treatment.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Patricia Mullen
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest