

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300272
Decision Date:	3/31/2023	Hearing Date:	02/15/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:
Via telephone



Appearance for MassHealth:
Via telephone
Dr. Harold Kaplan, 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:	3/31/2023	Hearing Date:	02/15/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Grandfather
Hearing Location:	Quincy Harbor South 1 (Remote)	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 December 21, 2022, MassHealth denied the Appellant's prior authorization request for orthodontic treatment. (130 CMR 420.431; Exhibit 1). The Appellant filed this appeal in a timely manner on January 5, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's request for coverage of orthodontic treatment.

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 was represented telephonically at the hearing by his grandfather. MassHealth was represented telephonically by an orthodontic consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The

Appellant's orthodontic provider sent MassHealth a prior authorization request on December 20, 2022, seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). (Exhibit 4, p. 12). As part of this request, the Appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form¹ and submitted these, along with photographs and x-rays of the Appellant's mouth. (Exhibit 4, pp. 9-15). The Appellant's orthodontist noted that a medical necessity narrative would not be submitted. (Exhibit 4, p. 11). The Appellant's orthodontist further noted that an autoqualifier ("Impactions where eruption is impeded but extraction was not indicated (excluding third molars'')) was present. (Exhibit 4, p. 10). On December 21, 2022, MassHealth denied the request based on a finding that the Appellant's first premolars and first permanent molars have not erupted. (Exhibit 4, pp. 2-6).

The MassHealth representative explained that MassHealth will only consider authorizing coverage for comprehensive treatment (that relates to impactions) after the first premolars and first permanent molars have erupted. Here, the Appellant's root development has not yet completed and therefore his teeth are not considered to be impacted at this time. However, the MassHealth representative further explained that if the Appellant's first premolars and first permanent molars do erupt, he may then qualify for comprehensive treatment. (See, id.)

The Appellant's grandfather testified that the orthodontic provider expressed his concerns pertaining to the Appellant's impacted canine teeth, particularly on the upper left side. Moreover, while he understands that the Appellant's first premolars have not erupted as of the date that the x-rays and photographs were taken, they should have erupted by now or will erupt shortly hereafter. The Appellant's grandfather further testified that the Appellant is seen by his orthodontic provider on a regular basis and was not recommended for comprehensive orthodontic treatment in the past. The Appellant's grandfather made inquiry as to why there is an autoqualifier called "Impactions where eruption is impeded but extraction is not indicated" when coverage was ultimately denied in this case. In response, the MassHealth representative explained that the Appellant's teeth in question are not considered to be impacted because eruption has not yet completed.

Findings of Fact

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

1. The Appellant is a minor child and MassHealth recipient. (Testimony).
2. On December 20, 2022, the Appellant's orthodontic provider sent MassHealth a prior authorization request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670). (Exhibit 4, p. 12).
3. Accordingly, the Appellant's orthodontic provider requested this treatment based on his

¹ The HLD Form that was submitted by the Appellant's orthodontic provider indicated the presence of one (1) autoqualifier. However, the HLD scoring portion of the HLD form was left blank. (See, Exhibit 4, p. 10).

examination of the Appellant, which included his finding of an auto-qualifying condition present, namely, “Impactions where eruption is impeded but extraction is not indicated (excluding third molars).” (Exhibit 4, p. 10).

4. On December 21, 2022 MassHealth denied the request based on a finding that the Appellant does not qualify for braces because his first premolars and first permanent molars have not yet erupted. (Testimony; Exhibit 4, pp. 2-6).

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. With respect 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....

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 following requirements:

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>.

- (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 the present case, the Appellant sought coverage for orthodontic treatment based upon the provider indicating the presence of an auto qualifying condition. The MassHealth representative testified that after his review of the Appellant’s x-rays and facial photographs that were submitted, the Appellant’s impacted teeth could not be counted yet because his first premolars and first permanent molars have not erupted. Indeed, while impactions (excluding third molars) that are impeding eruption is deemed an auto-qualifying condition, here it has not yet occurred. While the Appellant’s grandfather testified that the orthodontic provider expressed his concerns about the Appellant’s canine teeth being impacted, unfortunately this argument does not serve as a separate basis for approval. The Appellant has not demonstrated that MassHealth erred in denying the requested coverage for orthodontic treatment. This appeal is denied.³ (See, 130 CMR 420.431).

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

³ This denial does not preclude the Appellant or the Appellant’s dental provider from submitting a new prior authorization request to MassHealth every six months upon re-examination until the Appellant reaches the age of 21. Given the concerns discussed at the hearing during the time that the x-rays and photographs were last taken, he is encouraged to do so.

Court for the county where you reside, or Suffolk County Superior Court, within 30 days of your receipt of this decision.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA