

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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| Appeal Decision: | Dismissed in part Denied in part | Appeal Number: | 2300369 |
| Decision Date: | 3/28/2023 | Hearing Dates: | 02/22/2023 03/22/2023 |
| Hearing Officer: | Thomas J. Goode | | |

Appearance for Appellant:
Mother

Appearance for MassHealth:
Dr. Harold Kaplan, DMD



*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

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|---------------------------|-------------------------------------|--------------------------|--|
| Appeal Decision: | Dismissed in part Denied in part | Issue: | Interceptive/ Comprehensive Orthodontics |
| Decision Date: | 3/28/2023 | Hearing Dates: | 02/22/2023 03/23/2023 |
| MassHealth's Rep.: | Dr. Harold Kaplan | Appellant's Rep.: | Mother |
| Hearing Location: | Remote | | |

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 14, 2022, MassHealth approved Appellant's request for prior authorization of interceptive orthodontic treatment and denied a prior authorization request for comprehensive orthodontic treatment (130 CMR 420.431 and Exhibit 1). Appellant filed this appeal in a timely manner on January 17, 2023 (130 CMR 610.015 and Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal (130 CMR 610.032). A hearing was held on February 22, 2023. The hearing was continued on March 22, 2023.

Action Taken by MassHealth

MassHealth approved Appellant's request for prior authorization of interceptive orthodontic treatment and denied a prior authorization request for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying Appellant's prior authorization request for comprehensive orthodontic services.

Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, which is the MassHealth dental contractor. Dr. Kaplan is a licensed orthodontist with many years of clinical experience. Appellant's orthodontic provider submitted a prior authorization request for interceptive and comprehensive orthodontic treatment seeking approval for both services. Dr. Kaplan testified that interceptive orthodontic treatment was approved, however, comprehensive orthodontic treatment was denied. The hearing record remained open to allow Dr. Kaplan to review whether the two services could be approved simultaneously in Appellant's case. After reviewing photographs taken by Appellant's orthodontist, Dr. Kaplan submitted a response stating that interceptive treatment is indicated to correct Appellant's maxillary constriction and anterior cross bite, but as there does not appear to be a need for a protraction facemask or a reverse pull headgear, approval for both interceptive and comprehensive orthodontic treatment does not appear necessary at this time. Therefore, interceptive treatment was approved, but comprehensive treatment was denied (Exhibit 5, p. 2). At the reconvened hearing, Dr. Kaplan testified that interceptive and comprehensive treatment is only approved together for Class III skeletal malocclusions requiring facemask treatment at the same time that authorization for interceptive treatment is sought. Dr. Kaplan distinguished between dental and skeletal malocclusions, and explained that Appellant's case could be considered either a Class I or Class III malocclusion based on an anterior crossbite in the early stage of mixed dentition. He testified that when the anterior crossbite is corrected the mandible will go backwards a little bit when interference from anterior teeth is corrected as the anterior teeth in crossbite are pushing the mandible forward into a Class III relationship, as opposed to a true Class III skeletal malocclusion. Dr. Kaplan added that the purpose of interceptive treatment is to potentially prevent the need for comprehensive treatment; however, after interceptive treatment is completed, Appellant can submit a prior authorization request for comprehensive treatment which would be separately evaluated based on HLD¹ scoring and whether the malocclusion is considered handicapping. Dr. Kaplan also stated that approval for interceptive treatment does not preclude the possibility of approval for comprehensive treatment in the future.

Appellant's mother testified that she is primarily concerned that Appellant is not prevented from obtaining comprehensive treatment in the future. She testified that Appellant's orthodontist told her that interceptive and comprehensive treatment are typically approved simultaneously in similar cases, and that approval for interceptive treatment would not allow future authorization for comprehensive treatment because MassHealth approves orthodontic treatment once per member per lifetime.

Findings of Fact

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

1. Appellant's orthodontic provider submitted a prior authorization request for interceptive

¹ Handicapping Labio-Lingual Deviations.

and comprehensive orthodontic treatment seeking approval for both services.

2. Interceptive orthodontic treatment was approved; however, comprehensive orthodontic treatment was denied.
3. Appellant does not have a Class III skeletal malocclusion requiring facemask treatment.

Analysis and Conclusions of Law

Regulation 130 CMR 420.431 outlines payment for interceptive and comprehensive orthodontics:

(C) Service Limitations and Requirements.

(2) Interceptive Orthodontics.

(a) **The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime.** The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the *Dental Manual*.

(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion including skeletal Class III cases as defined in Appendix F of the *Dental Manual* when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.

(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. **Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the *Dental Manual* requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought.** For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.

(3) **Comprehensive Orthodontics.** **The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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*. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record.

The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure.

Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three (3) calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age.

Comprehensive orthodontic care should commence when the first premolars and 1st permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present.

Subject to prior authorization, the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

(emphasis added in bold)

For interceptive and comprehensive orthodontics to be approved simultaneously, regulations clearly state that the treatment plan for a Class III malocclusion must also include **facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought**. There is no evidence or testimony in the hearing record showing that Appellant has a Class III malocclusion requiring facemask treatment; therefore, I find credible Dr. Kaplan's determination that Appellant does not have a Class III malocclusion requiring facemask treatment.² Therefore, the MassHealth decision denying comprehensive treatment simultaneously with interceptive treatment is correct.

Interceptive orthodontic treatment includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment (130 CMR 420.431(B)(2)). Thus, interceptive and comprehensive treatments are separate and distinct services, each of which can be authorized once per member per lifetime as highlighted above. Upon completion of interceptive

² The characterization of Appellant's malocclusion as Class I or Class III is irrelevant in the issue of whether comprehensive treatment can be simultaneously approved as MassHealth presumably approved interceptive treatment to treat a Class III malocclusion (130 CMR 420.431(C)(2)(b)).

treatment, Appellant can submit a prior authorization request for comprehensive treatment which will be evaluated under 130 CMR 420.431(C)(3).

The appeal is DISMISSED in that all issues relating to the prior authorization request for interceptive orthodontic approved by MassHealth have resolved to Appellant's favor (130 CMR 610.051(B)). The appeal is DENIED in that MassHealth correctly denied comprehensive orthodontic treatment at this time.

Order for MassHealth

None, other than issue authorization for interceptive orthodontic treatment.

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.

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 J. Goode
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA