

Office of Medicaid BOARD OF HEARINGS

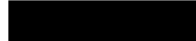
Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2300936
Decision Date:	6/8/2023	Hearing Date:	03/08/2023
Hearing Officer:	Kimberly Scanlon	Record Open to:	04/18/2023

Appearance for Appellant:

Via telephone,

, Mother

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:	Approved	Issue:	Orthodontic services
Decision Date:	6/8/2023	Hearing Date:	03/08/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South 3 (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 on or about December 20, 2022, MassHealth informed the Appellant, a minor, that it denied her prior authorization request for interceptive orthodontic treatment. (See, 130 CMR 420.431 and Exhibit 1). The Appellant filed this appeal in a timely manner on January 30, 2023. (See, 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's prior authorization request for interceptive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct in determining that the Appellant is precluded from authorization for interceptive orthodontic treatment.

Summary of Evidence

The Appellant is a minor child and MassHealth recipient who was represented telephonically at the

hearing by her mother. MassHealth was represented telephonically by an orthodontic consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. On or about December 16, 2022, the Appellant's orthodontic provider submitted a request for prior authorization, seeking coverage for interceptive orthodontic treatment (D8020; D8999) with a pre-orthodontic treatment examination (D8660). (Exhibit 4, pp. 4-5). As part of this request, the Appellant's orthodontic provider completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth. (Exhibit 6, pp. 9-17). The Appellant's orthodontic provider found an autoqualifier present, namely: Anterior open bite 2 millimeters or more; of 4 or more teeth per arch. (Exhibit 6, p. 10). The Appellant's orthodontic provider noted that a medical necessity narrative would not be submitted. (Exhibit 6, p. 11).¹ On or about December 20, 2022, MassHealth denied the Appellant's request for prior authorization for interceptive orthodontic treatment. (Exhibit 6, pp. 4-5).

The Appellant's representative did not contest the fact that the Appellant was denied. She testified that she appealed because the Appellant cannot bite down as her front teeth do not touch. As a result, the Appellant is unable to eat. The Appellant's orthodontic provider suggested a retainer in order to close the gap due to the Appellant's thumb-sucking habit so the Appellant can chew food properly.

The MassHealth representative testified that the Appellant has a severe open bite and is very young, noting that the Appellant had a lot of dental work performed and oral hygiene may be an issue. He explained that inserting an appliance into the Appellant's mouth would probably make it more difficult for her to receive oral hygiene. In response, the Appellant's representative stated that she did not believe that was true as the Appellant's orthodontic provider was very clear about the treatment that is needed now because the gap will only get worse. The Appellant's representative further stated that the Appellant's two front teeth measure differently as one tooth is longer than the other front tooth. She made inquiry as to how two front teeth could measure differently. The MassHealth representative responded that it was due to the Appellant's thumb-sucking habit. The Appellant's representative next inquired as to what more is needed for the Appellant to be approved because her x-rays show how terrible the Appellant's teeth are and the Appellant's dentist stating that this treatment is needed. The MassHealth representative explained that what is needed for MassHealth to re-evaluate the request is a medical necessity narrative from the Appellant's pediatrician if he or she feels that orthodontic intervention from a thumb-sucking habit would help her nutrition.

At the conclusion of the hearing, the record was left open until March 29, 2023 for the Appellant's representative to provide a letter from the Appellant's pediatrician stating, *inter alia*, the reasoning as to why orthodontic treatment is medically necessary. (Exhibit 6, p. 1). The Appellant's

¹ The Appellant's orthodontic provider also submitted a letter dated December 6, 2022 stating that the Appellant, a minor, has a 5 millimeter open bite due to thumb sucking and would benefit from a habit appliance. (Exhibit 6, p. 14).

representative requested to further extend the record open period until April 18, 2023, which was granted. (Exhibit 6, pp. 2-3). The Appellant's representative subsequently provided a letter from the Appellant's pediatrician which has been incorporated into the record as Exhibit 7. The MassHealth representative indicated that he received the documentation, reviewed it, and his decision was unchanged, accordingly he was upholding MassHealth's denial of services. (Exhibit 8).

Findings of Fact

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

1. The Appellant is a minor and MassHealth recipient. (Testimony; Exhibit 4).
2. On or about December 16, 2022, the Appellant's orthodontic provider submitted a request for interceptive orthodontic treatment (D8020; D8999) with pre-orthodontic treatment examination (D8660) for the Appellant. (Testimony; Exhibit 1).
3. The Appellant's orthodontic provider completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these, along with photographs and x-rays of the Appellant's mouth. (Exhibit 6, pp. 9-17).
4. On or about December 20, 2022, MassHealth denied the Appellant's requests for interceptive orthodontic treatment. (Exhibit 6, pp. 4-5).
4. The Appellant is unable to chew food properly due to an open bite. (Testimony; Exhibit 3).
5. The Appellant's two front teeth are measured at different lengths. (Testimony; Exhibit 3).

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)).

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>).

130 CMR 420.431 contains the description and limitations for orthodontic services. With respect to orthodontic requests, that regulation reads, in pertinent 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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

(B) Definitions.

(1) Pre-orthodontic Treatment Examination – includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) 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.

(3) Comprehensive Orthodontic Treatment – includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits – periodic visits which may include but are not limited to updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(C) Service Limitations and Requirements.

(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six (6) months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's twenty-first birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.

(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.

.....

(130 CMR 420.431). (Emphasis added).

Appendix F of the Dental Manual describes the process for requesting prior authorization treatment which includes, *inter alia*, a pre-orthodontic treatment examination to determine if orthodontic treatment is necessary. (See, 130 CMR 420.431(C)(1)). Appendix F further states that MassHealth approves prior authorization (PA) requests for interceptive orthodontic treatment if such treatment will prevent or minimize the development of a handicapping malocclusion or preclude the need for comprehensive orthodontic treatment. (See, 130 CMR 420.431(B)(2)).

In the present case, the MassHealth representative did not dispute the autoqualifier submitted by the Appellant's orthodontist. Indeed, the MassHealth representative testified at the hearing that the Appellant **has a severe open bite**. (emphasis added). Thus, the only issue on appeal is whether the Appellant's prior authorization request is medically necessary.

The regulatory definition of "medical necessity" for MassHealth providers can be found at 130 CMR 450.204, which states in pertinent part, the following:

130 CMR 450.204: Medical Necessity

- (A) A service is medically necessary if
- (1) It is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or aggravate a hardship, or result in illness or infirmity; and
 - (2) There is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to the MassHealth agency. Services that are less costly to the MassHealth agency include, but are not limited to, health care reasonably known by the provider, or identified by the MassHealth agency pursuant to a prior authorization request, to be available to the member described in 130 CMR 450.371(C), 503.007: Potential Sources of Health Care, or 517.007: Utilization of Benefits.

(130 CMR 450.204).

In reviewing the record before this Hearing Officer, the Appellant submitted a medical necessity narrative that was not originally submitted with the prior authorization request. The medical necessity narrative submitted on April 18, 2023, signed by the Appellant's pediatrician, stated that the Appellant is in need of dental work because the Appellant has non union or her upper and lower incisors as a result of thumb sucking. I conclude that the evidence within the Hearing Record is sufficient to find that this procedure is medically necessary and MassHealth's decision should be reversed. Therefore, this appealed is Approved.

Order for MassHealth

Rescind the denial notice dated December 20, 2022 and approve the Appellant's request for prior authorization for interceptive orthodontic treatment.

Within no later than 30 days of the date of this decision and as soon as possible, DentaQuest must issue an approval to both the Appellant's parent and the Appellant's orthodontic provider for interceptive orthodontic treatment on PA # 202235000135100.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA