

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2300977
Decision Date:	4/14/2023	Hearing Date:	03/20/2023
Hearing Officer:	Marc Tonaszuck	Record Open to:	04/03/2023

Appearance for Appellant:



Appearance for MassHealth:
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:	Comprehensive Orthodontic Treatment
Decision Date:	4/14/2023	Hearing Date:	03/20/2023
MassHealth's Rep.:	Dr. Harold Kaplan, DentaQuest	Appellant's Rep.:	Parents
Hearing Location:	Quincy Harbor South		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 01/30/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf¹ on 02/06/2023 (see 130 CMR 610.015(B) and Exhibit 2)². Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

At the fair hearing that took place on 03/20/2023, the appellant's parents requested an opportunity to provide additional evidence. The record remained open in this matter until

¹ The appellant is a minor child who was represented in these proceedings by her parents.

² 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.

04/03/2023 for the appellant's submission and until 04/17/2023 for MassHealth's response (Exhibit 5). No submission was made by the appellant during the record open period.

Action Taken by MassHealth

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

Issue

Is the appellant ineligible for comprehensive orthodontic treatment pursuant to 130 CMR 420.431(E)?

Summary of Evidence

The MassHealth orthodontic consultant from DentaQuest testified that on 01/26/2023 the appellant's provider requested prior authorization (PA) for comprehensive orthodontic treatment on behalf of the appellant, a MassHealth member under 21 years of age. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. The request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The MassHealth representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22 or an automatic qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had an "automatic qualifier," whereby MassHealth approves orthodontic treatment without calculating an HLD score. Specifically, the provider indicated that the appellant has an "impaction where eruption is impeded but extraction is not indicated (excluding third molars)." The appellant's orthodontist did not otherwise calculate an HLD Index score.

When DentaQuest received the appellant's PA request, the reviewing orthodontist determined that there were no impacted teeth that meet the definition of on the HLD Index. Further, DentaQuest determined that the appellant's HLD Index score did not reach the required 22 points. As a result, the PA request for the appellant's comprehensive orthodontics was denied by MassHealth on 01/30/2023.

The DentaQuest orthodontist testified that in preparation for the fair hearing, he reviewed the appellant's documentation provided to MassHealth with the prior authorization request from his orthodontist. He stated that his review of the appellant's photographs does not show an impaction. He stated that although one tooth has not yet erupted, the X-rays show that they are in a position where they will erupt in time without impaction. He confirmed that the appellant's age and the formation of the tooth roots suggests that the tooth may be delayed in erupting, but it is premature to call it "impacted." As a result, he could not find that there is at least one instance of an impaction and no other automatic qualifier. Further, his calculation of an HLD Index score was below the required 22 points. He concluded that without an HLD Index score of 22, or an automatic qualifying condition, there is no evidence of a severe and/or handicapping malocclusion and the appellant did not meet the criteria for MassHealth payment of the appellant's orthodontic services.

The appellant's parents testified that they are concerned primarily with two of the appellant's teeth – one is coming in "crooked," and the other "is not coming in at all." The appellant's orthodontist has already extracted four teeth in preparation for the braces. The parents testified that they understood that the appellant has already been pre-qualified for "both phases" of braces. They want the appellant to have braces to "stop crowding."

Dr. Kaplan responded that it is too early to determine that the appellant's tooth is "impacted." He testified that the tooth may be in a position to come in "ectopically." He suggested that the tooth be monitored to see if does erupt. He also informed the parents that they may have the appellant re-evaluated for MassHealth payment of her orthodontics every six months up to the age of 21.

The hearing officer asked the parents what they meant by "both phases" of braces and how the appellant has already been pre-qualified for them. The parents agreed to provide documentation from the orthodontist to explain. The record remained open until 04/03/2023 for their submission (Exhibit 5). No submission was made during the record open period.

Findings of Fact

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

1. The appellant is a MassHealth member who is a minor, represented at the fair hearing by her parents (Testimony).
2. On 01/26/2023, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 4).
3. The appellant's orthodontic provider indicated on the HLD Index form that the appellant has an automatic qualifying condition; specifically, she has at least one impacted tooth. The provider did not otherwise calculate an HLD Index score (Exhibit

- 4).
4. DentaQuest, on behalf of MassHealth, reviewed the appellant's PA request and determined that the HLD Index score was below 22 points. Additionally, the reviewing orthodontist determined that the appellant does not have impacted teeth, as defined by the HLD Index, nor does she have any other automatic qualifying conditions (Exhibits 1 and 4).
 5. On 01/30/2023, MassHealth denied the appellant's prior authorization request (Exhibit 1).
 6. A timely request for a fair hearing was submitted on the appellant's behalf on 02/06/2023 (Exhibit 2).
 7. A fair hearing took place on 03/20/2023 before the Board of Hearings (Exhibit 3).
 8. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
 9. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index.
 10. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
 11. An instance of one or more impactions is an automatic qualifier for MassHealth payment of comprehensive orthodontic services (braces). "Impaction" is defined on the HLD Index form as a tooth "where eruption is impeded but extraction is not indicated (excluding third molars)" (Testimony; Exhibit 4).
 12. Using measurements taken from the appellant's oral photographs and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant does not have an impacted tooth, specifically because of the appellant's age, the formation of the roots, and the position of the tooth, the tooth should erupt in time (Testimony).
 13. The DentaQuest orthodontist testified that the appellant's HLD Index score was less than 22 points (Testimony).
 14. The DentaQuest orthodontist concluded that the appellant does not have a severe and handicapping malocclusion.
 15. There is no other information in the hearing record to suggest that the comprehensive orthodontic services are medically necessary.

Analysis and Conclusions of Law

Regulation 130 CMR 420.431(E) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22.

In this case, the appellant's treating orthodontist did not calculate an HLD Index score. The treating orthodontist indicated that the appellant had an "automatic qualifier," specifically an impacted tooth. MassHealth, using the photographs and X-rays provided by the appellant's treating orthodontist could not verify the existence of the impaction. The MassHealth representative testified to the hearing officer with the use of the photographs and X-rays how the appellant's treating orthodontist erred in identifying the impaction. He testified credibly and under oath that the appellant's age, the formation of the tooth roots and the position of the tooth below the gum line do not show an impaction. The tooth may eventually be determined to be "impacted," however evidence of "impaction" is a significant period of time that the tooth does not erupt.

The appellant's parents requested an opportunity to submit additional evidence to the hearing record. The record remained open and during the record open period, the appellant's parents did not submit any documentation.

I credit Dr. Kaplan's testimony that the tooth in question is in a position to erupt in time and therefore it does not currently meet the definition of "impacted." Without the automatic qualifying condition, none of the reviewing orthodontists, including the appellant's treating orthodontist, could find an HLD Index score of 22. The appellant's treating orthodontist did not appear at the fair hearing and was not available for cross examination by the MassHealth representative or for questioning by the hearing officer. As a result, I agree with DentaQuest that there is not a handicapping and/or severe malocclusion and no automatic qualifying conditions. MassHealth correctly denied the prior authorization request for orthodontic treatment. This appeal is therefore denied.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest