

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision: Denied

Appeal Number: 2301217

Decision Date: 3/24/2023

Hearing Date: 03/20/2023

Hearing Officer: Marc Tonaszuck

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 Services
Decision Date:	3/24/2023	Hearing Date:	03/20/2023
MassHealth's Rep.:	Dr. Harold Kaplan, DentaQuest	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South		

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 01/30/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). On 02/15/2023, a timely appeal was filed with the Board of Hearings on behalf of the appellant, a minor child (see 130 CMR 610.015(B) and Exhibit 2)¹. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

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.

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared as the appeal representative at hearing via telephone. MassHealth was represented at hearing by Dr. Harold Kaplan, also by telephone, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

On 01/26/2023, the appellant's provider, Dr. Bansal, submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has an HLD score of 28, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	9	1	9
Overbite in mm	0	1	0
Mandibular Protrusion in mm	3	5	15
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0

Total HLD Score			28
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The appellant's orthodontist also identified an automatic qualifying condition; specifically, that the appellant has an overjet of at least 9 mm. The treating orthodontist did not include a medical necessity narrative with the PA request.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	6	1	6
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			15

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 01/30/2023.

At hearing, Dr. Kaplan testified that her reviewed all the information provided with the PA and according to his measurements, the appellant has an HLD score of 18. He testified that the appellant's provider did not score the appellant's malocclusion correctly; specifically, Dr. Kaplan disputed the appellant's score for a mandibular protrusion. Dr. Kaplan testified that the appellant's provider reported he measured three millimeters of a mandibular protrusion when, in fact, the appellant does not have a mandibular protrusion at all. Without the 15 points the provider scored, the appellant's HLD Index score is less than the required 22 points.

Second, Dr. Kaplan addressed the appellant's overjet. He testified that the appellant has 7 mm of overjet, which is incorporated into the total HLD Index score. Because the overjet is not at least 9 mm, the appellant does not meet the criteria for this automatic qualifying condition. Dr. Kaplan concluded that the appellant does not have any automatic qualifying condition and because her HLD Index score is below the required 22 points, MassHealth denies the request for payment of her comprehensive orthodontic treatment.

The appellant's mother testified telephonically that the appellant does not like to smile because of her teeth and the way they come together. She is able to chew her food, but sometimes has difficulty chewing on one side of her mouth. When asked if the appellant has a medical problem related to her teeth, the mother denied that she suffers from malnutrition or psychological issues or any other illness or disease. The mother also expressed concern for the space between her teeth when her mouth is closed.

The DentaQuest orthodontist responded that the gap in the appellant's mouth is due to her overjet – the scoring of which was considered on the HLD Index.

Findings of Fact

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

1. On 01/26/2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, calculated an HLD score of 28 points (Exhibit 4).
3. The appellant's orthodontic provider also indicated that the appellant has an automatic qualifying condition; specifically, that she has at least 9 mm of overjet (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 15, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
7. On 01/30/2023, MassHealth notified the appellant that the PA request had been denied (Exhibits 1 and 4).

8. On 02/15/2023, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 03/20/2023, a fair hearing took place before the Board of Hearings (Exhibit 3).
10. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 18 (Testimony; Exhibit 4).
11. The appellant's HLD score is below 22 (Testimony).
12. The appellant has an overjet measuring 7 mm (Testimony).
13. The appellant does not have a mandibular protrusion as defined by the instructions on the HLD Index Form (Testimony).
14. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm. involving 4 or more teeth).

Analysis and Conclusions of Law

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

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

Appendix D of the Dental Manual is the "Handicapping Labio-Lingual Deviations Form" (HLD), which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or

more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant's provider documented that the appellant has an HLD score of 28 and at least 9 mm of overjet, an automatic qualifying condition. Upon receipt of the PA request and after reviewing the provider's submission, MassHealth found an HLD score of 15 and no automatic qualifying condition. At hearing, after a review of the prior authorization documents, a different orthodontic consultant found an HLD score of 18 and no automatic qualifying condition.

There are two primary differences between the treating orthodontist's and the MassHealth orthodontist's evaluation. First is the automatic qualifying condition of 9 mm of overjet. The appellant's mother stated that her primary concern is the appellant's space between her front teeth when her mouth is closed. An overjet is a condition where the front top teeth jut out in front of the bottom front teeth, horizontally. It appears that the providing orthodontist measured the space to be at least 9 mm, which if verified, is an automatic qualifying condition. The MassHealth orthodontist testified that the overjet is 7 mm.

The second difference between the scores is a mandibular protrusion that the treating orthodontist scored for 15 points (for 3 mm). At hearing, the MassHealth orthodontist testified that the appellant has no mandibular protrusion.

Appendix D of the *Dental Manual* scoring instructions for mandibular protrusion, states,

score exactly as measured from the buccal groove of the first mandibular molar to the MB cusp of the first maxillary molar. The measurement in millimeters is entered on the form and multiplied by 5.

In this case, the appellant's treating orthodontist calculated an overall HLD Index score of 28, which included scores for overjet, mandibular protrusion, and 4 mm of labio-lingual spread. The MassHealth orthodontic consultant who testified under oath at the hearing calculated a HLD Index score of 18, measuring an overjet of 7 mm (7 points), and no mandibular protrusion (0 points).

The MassHealth orthodontist testified that the appellant's orthodontist incorrectly measured the mandibular protrusion, resulting in an HLD score that exceeds 22. He testified credibly that the appellant has no condition that can be scored as a mandibular protrusion using the above instructions. As a result, the provider's HLD score must be reduced by 15 points. Additionally, the appellant's overjet measures 7 mm, further reducing the provider's score by 2 points. The MassHealth orthodontist demonstrated his measurements and evaluation to the hearing officer, using the photographs, X-rays and other documentation in the appellant's clinical record to support his determination that there is no mandibular protrusion. Although there were other measurements that differed by a millimeter or two, the mandibular protrusion score alone makes the difference between a score that exceeds 22 and one that does not.

The treating orthodontist also reported that he measured an overjet of 9 mm, which, if verified, would satisfy the criteria for an automatic qualifying condition. An overjet is a condition when the upper teeth protrude outward and sit over the bottom teeth. MassHealth testified that the appellant's overjet is 7 mm, and does not meet the criteria for an automatic qualifying condition.

MassHealth's measurements, evaluation and conclusion are supported by the relevant facts in the hearing record, the regulations, and the instructions on the HLD Index Score Sheet. Using the accurate measurements, the MassHealth representative's score of 18 does not signify a severe and handicapping malocclusion. Additionally, there is no evidence of an automatic qualifying condition – the overjet is no more than 7 mm, not the 9 mm required. Thus, when the provider's score is corrected to comply with the instructions, the MassHealth representative could not find the appellant to have an HLD Index score at the level indicating a severe and handicapping malocclusion. There were no other medical circumstances submitted at the hearing which would affect this decision.

Appellant's mother testified that her concern about the appellant's teeth is primarily a self-confidence issue and a comfort issue; however, there was no medical documentation to show that the appellant has a "medical necessity" for the comprehensive orthodontic treatment requested. While the appellant's dental condition may benefit from orthodontic treatment, the requirements of 130 CMR 420.431(E) are clear and unambiguous. MassHealth will cover orthodontic treatment "only" for members who have a "severe and handicapping malocclusion." Based on the information in evidence, the appellant's HLD Index score is below the threshold of 22 at this time, there is no automatic qualifying condition, and there is insufficient evidence to support a finding of a severe and handicapping malocclusion.

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.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA