

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301941
Decision Date:	5/31/2023	Hearing Date:	04/12/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter *via* telephone



*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:	Orthodonture
Decision Date:	5/31/2023	Hearing Date:	04/12/2023
MassHealth's Rep.:	Dr. Carl Perlmutter	Appellant's Rep.:	
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 February 21, 2023, denied the appellant's PA request for comprehensive orthodontic treatment because the submitted documentation did not support the medical necessity of comprehensive orthodontic treatment. (See 130 CMR 420.431 and Exhibit (Ex.) 1; Ex. 2, p. 3; Ex. 5, pp. 3-5). The appellant filed this appeal in a timely manner on March 10, 2023. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying comprehensive orthodontic treatment.

Summary of Evidence

The MassHealth representative stated that he was an orthodontist employed by the company that oversees MassHealth's orthodontic program. The appellant is an individual under the age

of 18. (Ex. 1; Ex. 3; Ex. 5, pp. 3, 9, 14). The appellant's treating orthodontist submitted the appellant's request for comprehensive orthodontic treatment with photographs and x-rays. (Ex. 5, pp. 9-24). The MassHealth representative stated that he was at a complete disadvantage because only one x-ray and none of the photographs were legible to him. For this reason, he could not make his own assessment of the condition of the appellant's mouth.

The MassHealth representative stated that MassHealth usually does not pay for braces. MassHealth will only pay if the member's bite is so bad that it is considered a handicap to the member. This means that the member's teeth or jaws or both are in such poor position that the member cannot chew food appropriately. The MassHealth representative stated that if the member cannot chew, they will be unable to get proper nutrition to grow and stay healthy. The MassHealth representative stated that it had everything to do with the way the teeth chew and not with the way they look.

The MassHealth representative stated that the way MassHealth makes this assessment is by looking at nine characteristics of the appellant's bite and assigning points based on measurements to each of these characteristics. In order to be considered handicapping, and therefore eligible for treatment, the total number of points must be equal to or exceed 22. Based on this, the treating orthodontist and the MassHealth reviewer reached the following conclusions:

HLD SCORING	Treating	MassHealth
Overjet in mm	4	5
Overbite in mm	4	4
Mandibular Protrusion in mm	0	0
Anterior Open Bite	0	0
Ectopic Eruption	0	0
Anterior Crowding:	5	5
Labio-Lingual Spread in mm	5	2
Posterior Unilateral Crossbite	0	0
Posterior Impactions/Congenitally Missing Posterior Teeth (Excluding 3 rd molars)	0	0
Totals	18	16

(Ex. 5, pp. 11, 25)

The MassHealth representative stated that neither the treating orthodontist nor the MassHealth reviewer concluded the appellant had 22 points. The MassHealth representative stated that the appellant can return to the orthodontist six months after her last orthodontic appointment and every six months thereafter until the age of 21 and resubmit a request for comprehensive orthodontic treatment. The MassHealth representative stated that the orthodontist must submit all the required material, and what is submitted has to be legible in order for MassHealth to make the correct assessment.

The appellant's mother stated that, although she was not an expert, the pictures that she had showed that the appellant had a really big overbite. The appellant's mother stated that the appellant complains about discomfort while she is eating. The appellant is a young child and her teeth stick out. Children are not friendly and the appellant cries about it stating that her mouth bothers her and wanting her teeth to be straight. The appellant just would like to look normal. If it were just about fixing a gap in the appellant's teeth, the appellant's mother would understand. The world, however, is not friendly or kind and the appellant is being bullied. The appellant's mother just wants to make sure that the appellant is in both good physical and mental health.

The MassHealth representative stated that he did understand the appellant's mother's concerns. The MassHealth representative stated that the appellant's mother was also correct, from what he could determine from the photographs and one x-ray he did have, the appellant's teeth did stick out on top. The MassHealth representative stated it would behoove the appellant to return to the orthodontist in six months and have her teeth reassessed. The MassHealth representative stated that the orthodontist has to submit complete records, however. The MassHealth representative stated that there were other avenues for receiving treatment. If the appellant is receiving some form of psychiatric counseling, and the counselor could document that the appellant is experiencing harm as a result of her teeth, the appellant could submit a medical necessity narrative with the next orthodontic submission. There are also discounted services available from the Tufts, Harvard, and Boston University Dental Schools.

Findings of Fact

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

1. The appellant is an individual under the age of 18. (Ex. 1; Ex. 3; Ex. 5, pp. 3, 9, 14).
2. The appellant's treating orthodontist submitted the appellant's request for comprehensive orthodontic treatment with photographs and x-rays. (Ex. 5, pp. 9-24).
3. MassHealth usually does not pay for braces. (Testimony of the MassHealth representative).
4. MassHealth will only pay if the member's bite is so bad that it is considered a handicap to the member, which means that the member's teeth or jaws or both are in such poor position that the member cannot chew food appropriately. (Testimony of the MassHealth representative).
5. If the member cannot chew, they will be unable to get proper nutrition to grow and stay healthy. (Testimony of the MassHealth representative).

6. The way MassHealth makes this assessment is by looking at nine characteristics of the appellant's bite and assigning points based on measurements to each of these characteristics. (Testimony of the MassHealth representative).
7. In order to be considered handicapping, and therefore eligible for treatment, the total number of points must be equal to or exceed 22. (Testimony of the MassHealth representative).
8. Based on the above, the treating orthodontist concluded that the total score was 18 and the MassHealth reviewer concluded the score was 16. (Ex. 5, pp. 11, 25).
9. The MassHealth representative could not make his own assessment of the condition of the appellant's mouth because only one x-ray and none of the photographs were legible to him. (Testimony of the MassHealth representative).
10. The appellant is eligible to return to the orthodontist and submit a new request for orthodontic services six months after her last orthodontic appointment and every six months thereafter until she turns 21. (Testimony of the MassHealth representative).

Analysis and Conclusions of Law

130 CMR 420.431(B)(3) defines comprehensive orthodontic treatment as follows:

Comprehensive Orthodontic Treatment. 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. Comprehensive orthodontic treatment includes the transitional and adult dentition.

130 CMR 420.431(C)(3) describes the eligibility requirements for comprehensive orthodontic treatment, as follows:

(3) Comprehensive Orthodontics. 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 clinical standards for medical necessity as described in Appendix D of the Dental Manual...

The MassHealth agency pays for the office visit, radiographs and a record fee of the preorthodontic 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 and any adjustments (treatment visits) occurring in the calendar month of 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 age 21...

Appendix D of the MassHealth Dental Manual is the Authorization Form for Comprehensive Orthodontic Treatment, MassHealth Handicapping Labio-Lingual Deviations Index, 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.¹

The record shows by the preponderance of the evidence that the appellant does not qualify for comprehensive orthodontic treatment. The treating orthodontist asserted that the appellant had an HLD score of 18. The MassHealth reviewer scored it at 16. The MassHealth representative testified that he was unable to provide a score because he had only one x-ray and the photographs were not clear. As no orthodontist concluded that the appellant's HLD score was 22 or above, the weight of the evidence therefore does not currently support approving orthodontic treatment.²

¹ MassHealth also approves prior authorization requests for comprehensive orthodontic treatment when the member has one of the "auto qualifying" conditions described by MassHealth in the HLD Index. None of the three orthodontists asserted that there was an autoqualifying condition, however.

² That said, as the MassHealth representative mentioned, MassHealth will pay for comprehensive orthodontic treatment if a medical necessity narrative is submitted with the request for services. The instructions on how to do this can be found on pages 12-13 of the 25-page packet MassHealth sent to both the Board of Hearings and the appellant before the hearing. The appellant's mother acknowledged receiving this document. It can also be found here: <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.

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.

Scott Bernard
Hearing Officer
Board of Hearings

cc:

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