

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2301976
Decision Date:	5/31/2023	Hearing Date:	04/12/2023
Hearing Officer:	Scott Bernard		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter

Interpreter:

Spanish



*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 26, 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's treating orthodontist

submitted the appellant's request for comprehensive orthodontic treatment with photographs and x-rays. (Ex. 5, pp. 8-15). 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 appropriate. 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 based on the documentation submitted, both the initial MassHealth reviewer and the MassHealth representative concluded that the appellant's bite was not severely handicapping. The appellant could chew her food and get the proper nutrition to grow and stay health. The MassHealth representative stated that he would uphold the denial. The MassHealth representative stated that nevertheless, the appellant can go back to her orthodontist every six months until the appellant is 23 years old for re-examination and a new request can be put in at that time.

The appellant's representative, the appellant's mother, stated that when the appellant eats it hurts her a lot. Her gums are hurting, which is why the appellant's representative has been bring the appellant to the dentist a lot. The dentist has told both the appellant and the appellant's representative that the appellant's teeth are cutting into her gums.

The MassHealth representative stated that the appellants' orthodontist included photographs with the request. (Ex. 5, p. 13). The MassHealth representative stated that the photographs were well taken and show the appellant's teeth and bite exceptionally well. The MassHealth representative stated that there was no evidence that the appellant was biting into her gums anywhere.

The MassHealth representative stated that MassHealth uses a point system to determine to rate a member's bite. They look at nine characteristics of the bite and give a numerical value for each of the characteristics. The numerical value has to add up to 22 or higher in order for the bite to be considered handicapping. Each of the orthodontists who assessed the appellant's bite rated it as follows:

HLD SCORING	Treating Source	DentaQuest	DentaQuest at Hearing
Overjet in mm	5	4	4
Overbite in mm	5	4	4
Mandibular Protrusion in mm	5	5	0
Anterior Open Bite	0	0	0
Ectopic Eruption	0	0	0
Anterior Crowding:	5	5	5
Labio-Lingual Spread in mm	3	2	2

Posterior Unilateral Crossbite	0	0	0
Posterior Impactions/Congenitally Missing Posterior Teeth (Excluding 3 rd molars)	0	0	0
Totals	23	20	15

(Ex. 5, pp. 9, 16)

The MassHealth representative stated that the initial MassHealth reviewer got 20 points. (Ex. 5, p. 13). The MassHealth representative stated that he determined that the appellant's point total was only 15 points. Because these did not total 22 points, the appellant did not have a handicapping bite and MassHealth would not pay for braces. The MassHealth representative stated that this did not mean the appellant's bite was perfect, but it was not handicapping. The MassHealth representative stated that there was no evidence that the bite was causing the pain that the appellant had described. The MassHealth representative recommended that the appellant's representative ask the appellant's dentist why the pain was occurring.

The appellant's representative stated that she wanted to state one last thing as a mother. The appellant is in seventh grade. When she goes to school, she does not take off her mask because she is embarrassed by her teeth. The children make fun of the appellant regarding her crooked teeth. She is unhappy with the way she looks in this case and does not want to go to school.

Findings of Fact

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

1. The MassHealth representative was an orthodontist employed by the company that oversees MassHealth's orthodontic program. (Testimony of the MassHealth representative).
2. MassHealth usually does not pay for braces. (Testimony of the MassHealth representative).
3. 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 appropriate. (Testimony of the MassHealth representative).
4. If the member cannot chew, they will be unable to get proper nutrition to grow and stay healthy. (Testimony of the MassHealth representative).
5. MassHealth uses a point system to determine to rate a member's bite. (Testimony of the MassHealth representative).
6. MassHealth looks at nine characteristics of the bite and give a numerical value for each of the characteristics. (Testimony of the MassHealth representative).

7. The numerical value has to add up to 22 or higher in order for the bite to be considered handicapping. (Testimony of the MassHealth representative).
8. The appellant's treating orthodontist submitted the appellant's request for comprehensive orthodontic treatment with photographs and x-rays. (Ex. 5, pp. 8-15).
9. The treating orthodontic concluded that the appellant had a score of 23. (Ex. 5, p. 9).
10. The first MassHealth reviewer concluded the appellant had a score of 20. (Ex. 5, p. 16).
11. The MassHealth representative concluded the appellant had a score of 15. (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 23. The first MassHealth evaluator scored it at 20. The MassHealth representative testified that he scored it at 15. The weight of the evidence therefore does not currently support approving orthodontic treatment.

Order for MassHealth

None.

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.

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:

MassHealth Representative: DentaQuest 1, MA