

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2302816
Decision Date:	6/30/2023	Hearing Date:	05/10/2023
Hearing Officer:	Kimberly Scanlon		

Appearance for Appellant:

Via telephone



Appearance for MassHealth:

Via telephone

Dr. David Cabeceiras

Interpreter: Chhana (ITI)



*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:	Orthodontic services
Decision Date:	6/30/2023	Hearing Date:	05/10/2023
MassHealth's Rep.:	Dr. David Cabeceiras	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South 1 (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 March 28, 2023 MassHealth denied the Appellant's request for prior authorization for orthodontic treatment. (130 CMR 420.431; Exhibit 1). The Appellant filed this appeal in a timely manner on April 14, 2023. (130 CMR 610.015(B); Exhibit 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's request for orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the Appellant does not meet the MassHealth requirements for orthodontic treatment.

Summary of Evidence

The Appellant is a child and was represented telephonically at the hearing by his mother, who testified through an interpreter. 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 [REDACTED] 2022, the Appellant's orthodontic provider submitted a request for prior authorization of orthodontic treatment on behalf of the Appellant. (Exhibit 5, p. 15). As part of this request, the Appellant's orthodontic provider completed an Authorization Form for Comprehensive Orthodontic Treatment and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these, along with photographs and x-rays of the Appellant's mouth. (Exhibit 5, pp. 9-16). The Appellant's orthodontic provider noted that a medical necessity narrative was submitted, which was included by way of a flow chart.¹ (Exhibit 5, pp. 11, 14).

The MassHealth representative testified that MassHealth only covers the cost of orthodontic treatment if there is a severe problem (a handicapping malocclusion). To determine whether there is a handicapping malocclusion, a HLD Form is completed. The HLD Form lists (13) autoqualifiers and (9) characteristics with corresponding numerical values. The MassHealth representative explained that on the HLD Form, 22 points is needed for approval.²

The Appellant's orthodontic provider calculated a score of 32 points. (Exhibit 5, p. 13). The MassHealth representative testified that he calculated a score of 16 points. DentaQuest calculated a score of 16 points. (Exhibit 5, p. 8). The MassHealth representative explained that as of the date of hearing, he did not have enough information before him to overturn the denial. However, should anything change, the Appellant or his orthodontic provider can submit a new prior authorization to MassHealth every six months upon re-examination.

The Appellant's representative testified that she is concerned about the holes in the Appellant's middle teeth. The Appellant's representative explained that she spoke with the orthodontic provider directly and was told that if she wanted to have the orthodontic services provided to the Appellant, she had the option to pay out-of-pocket. The cost was approximately \$ 3,150.00. The Appellant's representative explained that she did not have the money to cover the cost and made inquiry as to whether the Appellant's teeth, if left untreated, will become deformed. In response, the MassHealth representative testified that they will not.

¹ The medical necessity narrative submitted consisted of a form titled "Medical Necessity Narrative Form." This form included a flow chart titled "Medical Necessity Statute" in the top half of said form. Accordingly, the flow chart consisted of a series of check marks indicating that orthodontic services for the Appellant are medically necessary to "correct a condition that causes malfunction and there is no other medical service: comparable in effect; available; suitable; more conservative or less costly." (Exhibit 5, p. 11). Further, the bottom half of this form titled "Orthodontic Flow Chart Details" indicated (via check marks) that harmful conditions and effects for the Appellant include: spacing; causes gum and bone (and) tooth infirmity. It is noted that said form was not submitted on the office letterhead of the provider, in accordance with instructions for submittal. (See, Exhibit 15, p. 14).

² Alternative means of potential approval also include: the presence of an autoqualifying condition; submission of a medical necessity narrative and supporting documentation.

Findings of Fact

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

1. The Appellant is a minor and MassHealth recipient. (Exhibit 3).
2. On or about [REDACTED] 2022, the Appellant's orthodontic provider submitted a request for comprehensive orthodontic treatment on behalf of the Appellant. (Exhibit 5, p. 15).
3. The Appellant's orthodontic provider completed an Authorization Form for Comprehensive Orthodontic Treatment and a HLD Form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth. (Exhibit 5, pp. 9-16).
4. The Appellant's orthodontic provider calculated a score of 32 points on the HLD Form. (Exhibit 5, p. 13).
5. DentaQuest calculated a score of 16 points. (Exhibit 5, p. 8).
6. The MassHealth representative calculated a score of 16 points. (Testimony).
7. The Appellant's orthodontic provider indicated that a medical necessity narrative was submitted. (Exhibit 5, p. 14).
8. The Appellant's orthodontic provider submitted a medical necessity narrative form by way of a flow chart. (Exhibit 5, p. 11).

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,³ 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)).

³ 130 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 limitation for orthodontic services. With respect to comprehensive orthodontic requests, that regulation reads in relevant 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....*

....

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. *The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime younger than 21 years old 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....*

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 5. As indicated by the paper record and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

In the present case, there is no dispute that an autoqualifying condition was not identified. (See, Exhibit 5, pp. 8, 13). That leaves the threshold score of 22 points and medical necessity narrative letter and supporting documentation. With respect to the threshold score (22 points), the Appellant’s orthodontic provider calculated a score of 32 points. The MassHealth representative and DentaQuest calculated a score of 16 points. The discrepancies in scoring included the following: Overjet: MassHealth calculated a score of 3 points. The Appellant’s orthodontic provider calculate a score of 4 points; Overbite: MassHealth calculated a score of 3 points. The Appellant’s orthodontic provider calculated a score of 5 points; Mandibular protrusion: MassHealth calculated a score of 5 points. The Appellant’s orthodontic provider calculated a score of 10 points; Labio-Lingual Spread: MassHealth calculated a score of 5 points. The Appellant’s orthodontic provider

calculated a score of 7 points; Posterior impactions or congenitally missing posterior teeth (excluding 3rd molars): MassHealth calculated a score of 0. The Appellant's orthodontic provider calculated a score of 6 points. (Exhibit 5, pp. 8, 13).

As to "medical necessity" the regulatory definition 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.
- (B) Medically necessary services must be of a quality that meets professionally recognized standards of health care, and must be substantiated by records including evidence of such medical necessity and quality. A provider must make those records available to the Division upon request. (42 U.S.C. 1396a(a)(30) and 42 C.F.R. 440.230 and 440.260).

(130 CMR 450.204).

Here, the Appellant's orthodontic provider submitted a form by way of a flow chart that indicated that the requested services were medically necessary for the Appellant. However, there was no supporting documentation provided in support thereof. Moreover, the form submitted by the Appellant's orthodontic provider did not state with specificity (aside from a series of check marks) the reasoning to support that the service was reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger the life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or aggravate a hardship, or result in illness or infirmity. (See, 130 CMR 450.204(A)(1)). This appeal is denied.⁴

Order for MassHealth

⁴ This denial does not preclude the Appellant or the Appellant's dental provider from submitting a new prior authorization (including a medical necessity narrative, on the office letterhead of the provider with supporting documentation) to MassHealth every six months upon re-examination.

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.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA