

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303659
Decision Date:	7/3/2023	Hearing Date:	06/07/2023
Hearing Officer:	Christopher Jones		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan



*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:	Prior Authorization – Orthodontia
Decision Date:	7/3/2023	Hearing Date:	06/07/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Pro se / Mother
Hearing Location:	Tewksbury MassHealth Enrollment Center - Virtual	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 April 17, 2023, MassHealth denied the appellant's prior authorization request for orthodontia. (See Exhibit 1.) The appellant filed this appeal in a timely manner on May 3, 2023. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for orthodontia.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that that comprehensive orthodontia was not medically necessary.

Summary of Evidence

The appellant's provider submitted a prior authorization request on the appellant's behalf seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations ("HLD") Form. The appellant's orthodontist identified the appellant as having 10 millimeters or more of crowding in either the upper or lower arch but did not otherwise provide measurements for the various bite characteristics on the HLD Form. (Exhibit 5, pp.6, 8-14.)

DentaQuest, MassHealth's dental contractor, reviewed the submitted images determined that the appellant's HLD Score was 14 and they did not agree that she automatically qualified due to 10 or more millimeters of crowding in a single arch. (Exhibit 5, p. 15.) At the hearing, Dr. Kaplan testified that MassHealth only pays for orthodontia when the member's bite is sufficiently severe to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion." This scale looks at characteristics of a bite to measure how the teeth work. Many children may need orthodontic care but do not meet MassHealth's definition of a physically handicapping bite.

Dr. Kaplan reviewed the submitted images and was unable to find 10 or more millimeters of crowding in the upper arch. He did find slightly more points than the initial DentaQuest reviewer, 19 points. The appellant's upper cuspids are ectopic, which means that they have erupted into mouth outside of the rest of the arch. Dr. Kaplan explained that the HLD Form allows for six points for two ectopic eruptions, but there was only about 3.5 millimeters of space needed per tooth to bring them into the arch. The appellant's incisors are also tilted out of alignment, but Dr. Kaplan did not believe that any additional space was needed to straighten them.

The appellant's mother was very frustrated by the entire process. She asked Dr. Kaplan to walk through his measurements. He explained that each cuspid was about seven millimeters wide. There is about 3.5 millimeters of space available for each tooth, so there were seven millimeters of space needed. The appellant's mother asked why no points were allowed for the incisors, and Dr. Kaplan responded that he did not believe space needed to be created to straighten those teeth because they were not overlapping. He eventually conceded that perhaps a millimeter was needed to straighten the teeth, but again noted that this only brings the total amount of crowding to eight millimeters.

The appellant's mother was also frustrated by the fact that the measurements were supposed to be objective, but there were three different orthodontists who got different measurements. Furthermore, their private dental insurance agreed to cover the braces as "medically necessary." She was also concerned that the appellant's provider had got such a different measurement from Dr. Kaplan and wondered if that indicated the provider was incompetent. Dr. Kaplan explained that he did not believe the provider was incompetent. It was impossible to tell, however, what the basis for the provider's measurements were without him there to explain how he got them. Dr.

Kaplan acknowledged that he might see something different if he were able to examine the appellant's teeth in person, but he felt strongly that there was not 10 millimeters of crowding visible to him in the evidence available.

The appellant's mother explained that the scheduling of the hearing ran into a series of unfortunate errors, the result of which was that she could not take off from work to make it to the in-person hearing site. She did have a meeting with the provider who went over the submission and the MassHealth decision and said that orthodontia was absolutely necessary. However, she did not get more detail regarding where he was seeing the 10 millimeters of crowding. Rather, she was told that the system was difficult, and they needed to go through the hearing. It was pointed out that the appellant is allowed to be reevaluated every six months, and that they could ask their orthodontist to submit something in writing explaining where they saw the crowding that was adding up to 10 millimeters.

Findings of Fact

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

1. The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found an automatic qualifying condition, crowding of 10 or more millimeters in one arch. (Exhibit 5, pp.6, 8-14.)
2. MassHealth denied comprehensive orthodontia, finding only 14 points on the HLD scale and crowding of less than 10 millimeters in a single arch. (Exhibit 5, pp. 3-5, 7, 15.)
3. Based upon the submitted images, the appellant would require 3.5 millimeters of space to be created to bring her cuspids into alignment, and one millimeter to align her incisors. Otherwise, she scored less than 22 on the HLD Scale. (Testimony by Dr. Kaplan.)

Analysis and Conclusions of Law

MassHealth covers orthodontic services when it determines them to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.¹ (130 CMR 450.204.) Pursuant to 130 CMR 420.431(C)(3), MassHealth

¹ The Dental Manual and Appendix D are available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited June 7, 2023.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"). (Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>, last visited June 7, 2023.)

“pays for comprehensive orthodontic treatment ... 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.” The regulations do not speak directly to what conditions qualify as “severe and handicapping” except to specifically cover “comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.” (130 CMR 420.431(C)(3).)

The HLD Form is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth has made a policy decision that a score of 22 or higher signifies a “severe and handicapping malocclusion,” ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping: cleft palate, deep impinging overbite, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than nine millimeters, or reverse overjet greater than 3.5 millimeters. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

The ORM includes limited additional guidance regarding crowding “of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth. Does not include extracted, congenitally missing, or supernumerary teeth. Indicate an “X” on the form. (This is considered an autoqualifying condition.)” (ORM, Appendix B, p. B-3.) The instructions for scoring “Anterior Crowding” also note “[m]ild rotations that may react favorably to stripping or mild expansion procedures are not to be scored as crowded.” (Id.)

Two orthodontists reviewed the submitted images and found that they did not reflect 10 or more millimeters of crowding. Dr. Kaplan testified as to where he was able to find measurable crowding, and there was no evidence available to contradict his position. Therefore, his professional opinion is more persuasive. As he also found fewer than 22 points on the HLD Score. Therefore, this appeal is 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.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA
Joshua Fishburn, 17 Beacon St. Gloucester, MA 01930