

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2303672
Decision Date:	6/28/2023	Hearing Date:	06/05/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan, D.M.D

Interpreter:

Thoa Wing



*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:	PA-Dental Services
Decision Date:	6/28/2023	Hearing Date:	06/05/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South 2	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 March 29, 2023, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on April 26, 2023. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's request for approval of the prior authorization for braces or full and comprehensive orthodontic treatment.

Issue

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

Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by her mother. MassHealth was represented by Dr. Harold Kaplan, a board-certified orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. Appellant's mother and Dr. Kaplan appeared in person in Quincy. Appellant was in school.

Dr. Kaplan testified that MassHealth does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 22. (Ex. 4, p. 8). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 18 on the scale. (Testimony). DentaQuest reached a score of 14. (Ex. 4, p. 13). Dr. Kaplan testified that the difference in scoring was he only found one missing posterior tooth and therefore scored only 3 points. (Testimony). Appellant's orthodontist found 2 missing posterior teeth and scored 6 points. (Ex. 4, p. 8; Testimony).

Regardless of point total, it is also possible to qualify for orthodontic treatment if the appellant has a condition deemed an Autoqualifier. Here, the appellant's provider did not indicate the presence of an Autoqualifier. (Ex. 4, p. 8). Dentaquest did not find the presence of an Autoqualifier. (Ex. 4, p. 13). Dr. Kaplan testified he also did not find an Autoqualifier was present based upon his in-person review. (Testimony).

It is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for the appellant. In order for the appellant's particular conditions to be evaluated to see if those particular conditions support a Medical Necessity determination, evidence, in the form of a Medical Necessity Narrative letter and supporting documentation, must be submitted by the appellant's requesting provider. Generally, this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental. Here, the appellant's orthodontic provider did not provide a Medical Necessity Narrative, nor was any additional supporting documentation submitted. Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical

Necessity determination at this time.

Appellant's mother testified that she understood there was no evidence of medical necessity but she sees a medical necessity because her daughter's ability to chew and eat can affect her health.

Findings of Fact

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

1. Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 1-3).
2. Neither the initial DentaQuest review nor the review testified to by Dr. Kaplan found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 13; Testimony).
3. Appellant's provider submitted an HLD score of 22 points. (Ex. 4, p. 8).
4. None of the three orthodontists examining the record found an auto qualifier present. (Testimony; Ex. 4, pp. 8, 13).
5. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 6; Testimony).
6. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time. (Testimony).
7. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 4).

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,¹

¹ 130 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

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).

130 CMR 420.431 contains the description and limitation for orthodontic services. As 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**. ...

(Bolded emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. As indicated by the paper record, the MassHealth testimony, 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.

The appellant has the burden "to demonstrate the invalidity of the administrative determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). On this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

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>.

A review of the different HLD scores is required to ascertain if appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. Here, the appellant's orthodontic provider calculated a score of 22 points on the HLD scale. Dr. Kaplan only found an HLD score of 18. (Testimony). Dr. Kaplan testified that after he carefully looked at photos and x-rays of appellant's mouth, one of the differences between his HLD score of 18 and appellant's orthodontist's score of 22 was the number of missing posterior teeth. Dr. Kaplan only found one missing tooth and scored a 3 on the HLD. Appellant's orthodontist found two missing teeth and scored a 6 on the HLD scale. (Testimony; Ex. 4, p. 8). If the scoring of the extra missing tooth found by appellant's orthodontist is removed from the scoring, the appellant's orthodontist would have only reached a score of 19.

I credit the testimony of Dr. Kaplan. I find Dr. Kaplan's explanation of his process in reviewing photos and other evidence of appellant's mouth to be very thorough. He testified he was careful in his review and is a board-certified orthodontist. (Testimony). Dr. Kaplan is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that the opinion of the orthodontist present at hearing to be persuasive and plausible. The 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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA