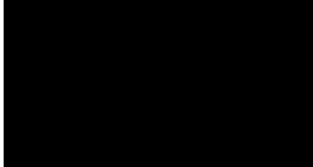


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2304320
Decision Date:	09/07/2023	Hearing Date:	07/10/2023
Hearing Officer:	Alexandra Shube	Record Open to:	08/14/2023

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan

Interpreter:

Sheri, 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:	Approved	Issue:	Prior Authorization – Orthodontics
Decision Date:	09/07/2023	Hearing Date:	07/10/2023
MassHealth’s Rep.:	Dr. Kaplan	Appellant’s Rep.:	Mother; Pro se
Hearing Location:	Tewksbury MassHealth Enrollment Center	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 25, 2023, MassHealth denied the appellant’s request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on May 24, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032). The record in this appeal was officially held open until August 14, 2023, although MassHealth did not submit its final response until August 22, 2023.

Action Taken by MassHealth

MassHealth denied the appellant’s request for prior authorization of comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member who appeared at hearing with his mother. MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and x-rays, on April 21, 2023. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider's HLD Form indicates that she found a total score of 15, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding ¹	Maxilla: n/a Mandible: x	Flat score of 5 for each ²	5
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			15

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18. The DentaQuest HLD Form reflects the following scores:

¹ The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption or the anterior crowding, but not to count both scores.

² The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: x	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			18

Because it found an HLD score below the threshold of 22 and no autoqualifying condition, MassHealth denied the appellant's prior authorization request on April 25, 2023.

At hearing, Dr. Kaplan completed an HLD form based on a careful review of the x-rays and photographs. He determined that the appellant's overall HLD score was 18, broken down similarly to MassHealth's HLD Form.

The appellant's mother explained that her son grinds his teeth a lot and his dentist explained it was due to his poor bite. Additionally, when he eats, his tooth on his lower right side always hits his upper lip, often causing it to bleed. His teeth are crowded and sticking out. He feels embarrassed by how his teeth look and will not smile in photographs. It has lowered his self-esteem. The appellant stated that he really needs braces medically and emotionally. Because of his teeth, he has been bullied by other kids at school and he is depressed.

Dr. Kaplan explained that MassHealth will also consider a medical necessity narrative from a treating provider. He also advised the appellant that he may be re-examined every six months and has until the age of 21 to be treated. Because the appellant's HLD score is below 22 and there were no autoqualifiers present, the appellant does not have a handicapping malocclusion and MassHealth will not pay for comprehensive orthodontic treatment at this time. Dr. Kaplan explained that while the appellant's bite would be improved with braces, it is not severe enough for MassHealth to pay for it.

The record was held open until August 7, 2023 for the appellant to submit a medical necessity narrative from his pediatrician or other qualified professional. MassHealth was given until August 14, 2023 to review and respond to the appellant's submission. This hearing officer had difficulty getting a response from MassHealth and did not get MassHealth's final response until August 22, 2023, despite multiple attempts via email to reach the consultant and DentaQuest. At no point did MassHealth request an extension of the record open period.

On July 20, 2023, the appellant submitted the following letter from his pediatrician:

I am the pediatrician for [the appellant], and he has been followed at my clinic since 2017. [The appellant] been diagnosed with malocclusion and overcrowding leading to severe impact on [the appellant's] behalf that deems braces as medically necessary. These are medically necessary to correct the condition and prevent further complications. The braces will aid in improving [the appellant's] oral health, enhancing their ability to chew, and contribute to the overall development and alignment of their teeth and jaws.

The appearance of [the appellant's] teeth and their misalignment have had a profound negative effect on their self-esteem and overall psychological well-being. The visible dental irregularities have led to feelings of embarrassment, self-consciousness, and social anxiety. This has resulted in a significant decline in [the appellant's] confidence, which has impacted their interpersonal relationships, academic performance, and overall quality of life. For example, he rarely smiles. He covers his face constantly so much so that when he is at school, teachers need to continuously remind him to stop covering his mouth when he speaks since they cannot hear or understand what he is saying.

The proposed orthodontic treatment is not only aimed at correcting the physical alignment of [the appellant's] teeth but also addressing the psychological impact they are experiencing. By improving the appearance of their teeth and smile, braces will help alleviate the emotional distress and enhance [the appellant's] self-esteem and mental well-being.

Thank you for your attention to this matter. I sincerely hope for a compassionate consideration of the medical necessity of braces, taking into account the psychological well-being of [the appellant].

After multiple attempts to reach Dr. Kaplan and DentaQuest, Dr. Kaplan responded on August 21, 2023 stating that he reviewed the narrative with the doctors who make the final decisions regarding medical necessity and it was decided that the medical necessity narrative did not fit the MassHealth guidelines to overturn the denial. On August 22, 2023, he provided further explanation by referencing an email dated April 26, 2023 (not specific

to the appellant's case) from Dr. Jay Maillett explaining that "we are looking for a diagnosed medical condition from a licensed specialist with an explanation of how orthodontic treatment is medically necessary to alleviate this medical condition."

Findings of Fact

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

1. On April 21, 2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The appellant's provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 15 (Exhibit 4).
3. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18 (Exhibit 4).
5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
6. On April 25, 2023, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
7. On May 24, 2023, the appellant filed a timely appeal of the denial (Exhibit 2).
8. At hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays and found an HLD score of 18 (Testimony).
9. The appellant's HLD score is below 22.
10. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; overjet greater than 9 mm; reverse overjet greater than 3.5 mm; crowding of 10mm or more in either the maxillary or mandibular arch (excluding 3rd molars); spacing of 10mm or more in either the maxillary or mandibular arch (excluding 3rd molars); anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch;

two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant; lateral open bite 2mm or more of 4 or more teeth per arch; anterior open bite 2mm or more of 4 or more teeth per arch).

11. The record was held open for the appellant until August 8, 2023 and for MassHealth until August 14, 2023 (Exhibit 6).
12. During the record open period, the appellant timely submitted a medical necessity narrative on July 20, 2023 from his pediatrician who has been treating him since 2017. The narrative stated that the appellant experiences feelings of embarrassment, self-consciousness, and social anxiety due to his dental irregularities. This has resulted in a decline in the appellant's confidence, impacting his interpersonal relationships, academic performance, and overall quality of life. Orthodontic treatment would alleviate these issues. (Exhibit 7).
12. MassHealth was given until August 14, 2023 to review and respond to the appellant's submission. MassHealth did not respond until August 21, 2023, after repeated attempts by the hearing officer to get a response from either Dr. Kaplan and/or DentaQuest.
13. On August 21, 2023, Dr. Kaplan stated via email it was decided that the medical necessity narrative did not fit the MassHealth guidelines to overturn the denial (Exhibit 9).

Analysis and Conclusions of Law

130 CMR 420.431(C)(3) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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.**

(Emphasis added).

Appendix D of the Dental Manual is the "Handicapping Labio-Lingual Deviations Form" (HLD), 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 handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of

one of the following automatic qualifying conditions: cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; overjet greater than 9 mm; reverse overjet greater than 3.5 mm; crowding of 10mm or more in either the maxillary or mandibular arch (excluding 3rd molars); spacing of 10mm or more in either the maxillary or mandibular arch (excluding 3rd molars); anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant; lateral open bite 2mm or more of 4 or more teeth per arch; or anterior open bite 2mm or more of 4 or more teeth per arch.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient's malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or
- v. a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider's justification of medical necessity involves a **mental, emotional, or behavioral condition**...that would typically require the diagnosis, **opinion**, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must

- i. clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g. general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;

- iii. state the specific diagnosis **or other opinion of the patient's condition furnished by the identified clinician(s)**;
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- v. discuss any treatments for the patient's condition (other than the comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

(Appendix D; emphasis added).

The appellant's provider found an overall HLD score of 15. After reviewing the provider's submission, MassHealth found an HLD score of 18. Upon review of the prior authorization documents and an in-person evaluation at hearing, Dr. Kaplan also found an HLD score of 18. None of the orthodontists, including the appellant's own provider, found any evidence of any of the automatic qualifying conditions. Dr. Kaplan's measurements and testimony are credible and his determination of the overall HLD score and the lack of autoqualifiers is consistent with the evidence.

All three of the appellant's HLD scores fall below the necessary 22 points. The appellant also does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. At hearing, however, the appellant expressed feelings of anxiety and depression and faces bullying due to his malocclusion. Dr. Kaplan explained the option of submitting a medical necessity narrative and the record was held open to allow the appellant's pediatrician to submit one. In addition to social anxiety, the pediatrician also mentioned communication difficulties that arise because of the appearance of the appellant's teeth.

Upon review, the medical necessity narrative provided meets the requirements laid out in Appendix D of the Dental Manual and the appeal is APPROVED. MassHealth's response was both late and vague and gave no reasoning as to why the medical necessity narrative did not meet the instructions. The email dated April 26, 2023 that Dr. Kaplan references is not specific to this appeal and seems to imply that the only way a medical necessity narrative will be approved by MassHealth is if there is a "diagnosed medical condition." The instructions in Appendix D, however, clearly state that if the justification of medical necessity involves a mental, emotional, or behavioral *condition* (not diagnosis), the qualified and licensed professional who furnished the "diagnosis **or opinion substantiating the condition**" needs to "state the specific diagnosis **or opinion** of the patient's condition furnished by the identified clinician..." The appellant's pediatrician has followed the instructions in Appendix D for the medical necessity narrative, including providing his opinion on the patient's conditions, and has shown that orthodontic treatment is medically necessary to treat those conditions.

For these reasons, the appeal is approved.

Order for MassHealth

Approve the appellant for the orthodontic services requested in the prior authorization received on April 21, 2023.

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.

Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact your MassHealth Enrollment Center. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, at the address on the first page of this decision.

Alexandra Shube
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA