

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved; Remanded	Appeal Number:	2305391
Decision Date:	09/26/2023	Hearing Date:	08/07/2023
Hearing Officer:	Kimberly Scanlon		

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:	Approved; Remanded	Issue:	Orthodontic services
Decision Date:	09/26/2023	Hearing Date:	08/07/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
Hearing Location:	Tewksbury MassHealth Enrollment Center Room 1	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 June 6, 2023, MassHealth denied the Appellant's request for prior authorization for comprehensive orthodontic treatment because MassHealth determined that the service exceeds the benefit allowance in that it is limited to once per lifetime per member. (See, 130 CMR 420.431(C); Exhibit 1). The Appellant filed this appeal in a timely manner on June 15, 2023. (See, 130 CMR 610.015(B); Exhibit 2). Denial of a request for prior authorization is valid grounds for appeal. (See, 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's request for prior authorization for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the Appellant is precluded from authorization for comprehensive orthodontic treatment, because he was authorized for such treatment in the past.

Summary of Evidence

The Appellant is under the age of 21 and was represented at the hearing by his grandmother and a family friend. The Appellant's grandmother verified the Appellant's identity. MassHealth was represented by an orthodontic consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the Appellant on February 22, 2023. (Exhibit 6, p. 10). The Appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs and x-rays of the Appellant's mouth. (Exhibit 6, pp. 7-13). The Appellant's orthodontist did not indicate whether a medical necessity narrative was submitted. (Exhibit 6, p. 7).

The MassHealth representative testified MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. The HLD form lists 13 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. If a member has any of the 13 autoqualifiers or an HLD score of 22 or higher, the member meets the criteria for handicapping malocclusion. One of the autoqualifiers is impactions where eruption is impeded but extraction is not indicated (excluding third molars). (Exhibit 6, p. 8). The Appellant's orthodontic provider indicated that the Appellant meets this autoqualifier which the MassHealth representative did not dispute. The Appellant's orthodontic provider further indicated that the HLD score completed for the Appellant was calculated at a score of 25 points. (*Id.*).

The MassHealth representative testified that the Appellant's first orthodontist recommended and was paid for inserting palate expanders (first phase) which did not appear to be the correct choice of treatment at that time. However, it appears that the Appellant's first orthodontist requested, and was paid for Comprehensive Orthodontic treatment and not Interceptive Orthodontic treatment.

The Appellant's representative inquired as to how they would know whether any orthodontist was paid the full amount. Specifically, the Appellant has been seen by three different orthodontists for various reasons. Each time the Appellant was seen by a different orthodontist, he would have to start all over again with treatment. Specifically, orthodontic treatment was approved for the Appellant in 2019 for upper and lower palate expanders. However, the palette expanders were removed in August of 2020 because the Appellant's teeth required extraction. During this timeframe, the Appellant's family relocated and therefore the Appellant continued treatment with

another provider for the remainder of 2020. The Appellant's subsequent orthodontist explained that his office has a 2-phase treatment policy. The Appellant was charged out-of-pocket for Phase 1 and stated that Phase 2 would likely be covered by MassHealth. (Testimony; Exhibit 6, pp. 1, 9-10, 25). The Appellant's representative noted that the Appellant's family paid for Phase 1 treatment. The Appellant's subsequent provider completed Phase 1 treatment at the end of 2022. (Testimony; Exhibit 6, p. 1). Upon completion thereof, and just prior to Phase 2 treatment commencing, the Appellant's family learned that the Appellant's (second) orthodontist would no longer be covered in the network. Therefore, the Appellant was brought to a third orthodontist who accepts MassHealth insurance. (*Id.*)

The MassHealth representative explained that he looked at the Appellant's records and testified that there is no question that the Appellant needs orthodontic treatment. The MassHealth representative suggested that the Appellant's representatives contact MassHealth to explain what occurred. The Appellant's representative explained that she has been in contact with MassHealth for months explaining what happened.

The MassHealth representative testified that the issue is that MassHealth covers orthodontic treatment with the limitation of once per member, per lifetime. The Appellant's representatives testified that the current request for orthodontic treatment is a continuation of services that was never completed by the previous orthodontists.

Findings of Fact

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

1. The Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant.
2. The Appellant's orthodontist completed an Orthodontics Prior Authorization Form and an HLD Form and submitted these, along with photographs and x-rays of the appellant's mouth, to DentaQuest.
3. The Appellant meets the HLD autoqualifier of impactions where eruptions have impeded but extraction is not indicated (excluding third molars).
4. The Appellant is open on MassHealth Standard and is under age 21.

Analysis and Conclusions of Law

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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

(130 CMR 420.431(A)).

Comprehensive Orthodontics. 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs, and a record fee of the pre-orthodontic 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 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 21 years of age. Comprehensive orthodontic care should commence when the first premolars and 1st permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one 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)).

Orthodontic Transfer Cases: The MassHealth agency pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. Payment for transfer cases is limited to the number of treatment visits approved. Providers must submit requests using the form specified by MassHealth.

(130 CMR 420.431(C)(6)).

In accordance with documentary evidence submitted and testimony provided at the hearing, the Appellant's first orthodontist was paid in full for comprehensive orthodontic treatment that was never performed. It is unclear why the Appellant's family then had to pay the Appellant's second orthodontist out-of-pocket for Phase 1 treatment when the MassHealth agency, accordingly, pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization. (See, 120 CMR 420.431(C)(6)).

MassHealth covers comprehensive orthodontic treatment if the MassHealth member evidence a handicapping malocclusion either by having one of the autoqualifiers listed on the HDL form or by meeting an HLD score of 22 or higher. Comprehensive orthodontic treatment is also covered by MassHealth if it is medically necessary for the member as evidenced by a medical necessity narrative and supporting documentation. MassHealth did not dispute that the Appellant has an autoqualifying condition present, namely, Impactions where eruption is impeded but extraction is not indicated (excluding third molars). Rather, MassHealth denied the Appellant's request for prior authorization because MassHealth determined that the Appellant has already received orthodontic treatment and coverage is limited to once per member per lifetime.

Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction, without regard to service limitations described in 130 CMR 420.000, and with prior authorization.

(130 CMR 420.408).

Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction

(A) Legal Basis. (1) In accordance with federal law at 42 U.S.C. 1396d(a)(4)(b) and 1396d(r), and 42 CFR 441.50, and notwithstanding any limitations implied or expressed elsewhere in MassHealth regulations or other publications, the MassHealth agency has established a program of Early and Periodic Screening, Diagnostic and Treatment (EPSDT) for MassHealth Standard and MassHealth CommonHealth members younger than 21 years old, including those who are parents.

(130 CMR 450.140(A)(1)).

Providers of Dental Services. (1) Dental care providers must offer to provide services listed in Appendix W: EPSDT Services: Medical and Dental Protocols and Periodicity Schedules of all MassHealth provider manuals to all members younger than 21 years of age (except members enrolled in MassHealth Limited) in accordance with the Dental Schedule, and must provide or

refer such members to assessment, diagnosis, and treatment services. (2) The dental services described in the Dental Schedule are payable when provided by dental providers as described in 130 CMR 420.000: Dental Services.

(130 CMR 450.142(B)).

Because the Appellant is under the age of 21 and on MassHealth Standard, he is an EPSDT member. (See 130 CMR 450.140(A)(1)). MassHealth pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140, without regard to service limitations described in 130 CMR 420.000, and with prior authorization. However, there it is unclear whether the Appellant's current orthodontic provider submitted the appropriate documentation indicating that the requested services are medically necessary. What is clear is that the MassHealth representative testified that "there is no question that the Appellant needs orthodontic treatment." Moreover, the MassHealth representative did not dispute the presence of an autoqualifying condition present.

For the reasons set forth above, this appeal is Allowed and Remanded. MassHealth is ordered to collaborate with the Appellant's current dental provider to ensure that all necessary clinical documentation and x-rays are submitted. MassHealth will then be able to make a fair determination of the Appellant's eligibility and issue a new notice, including new appeal rights.¹

Order for MassHealth

Rescind the June 6, 2023, notice of denial for PA # 202315300351400. MassHealth shall issue a new notice upon review of the Appellant's clinical records, in entirety.

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

¹ MassHealth is further encouraged to make efforts at recouping any money paid to the Appellant's first orthodontist for comprehensive orthodontic services that were not performed.

address on the first page of this decision.

Kimberly Scanlon
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA