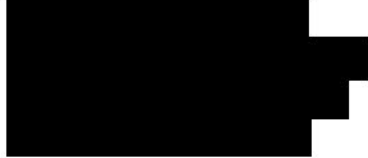


Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2305523
Decision Date:	10/10/2023	Hearing Date:	08/28/2023
Hearing Officer:	Paul C. Moore	Record Closed:	09/21/2023

Appellant Representative:



MassHealth Representative:

Harold Kaplan, D.M.D., DentaQuest consultant

Spanish Interpreter:



(by telephone)



*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, Comprehensive Orthodontic Treatment
Decision Date:	10/10/2023	Hearing Date:	08/28/2023
MassHealth Rep.:	Dr. Kaplan	Appellant Rep.:	Mother
Hearing Location:	Board of Hearings, Quincy		

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 1, 2023, MassHealth denied the appellant's request for prior authorization (PA) for comprehensive orthodontic treatment because MassHealth determined that the appellant does not have a severe and handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage (130 CMR 420.431; Exh. 1). The appellant requested this appeal in a timely manner on July 20, 2023 (Exh. 2). A PA denial is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive 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 coverage of comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a [REDACTED] year-old MassHealth member who attended the hearing with his mother, who is his appeal representative. The MassHealth representative, an orthodontist consultant with DentaQuest (the contracted agent of MassHealth that makes the dental prior authorization determinations), testified that the appellant's orthodontist, [REDACTED], submitted a PA request for comprehensive orthodontic treatment for the appellant on or about [REDACTED] 2023. [REDACTED] completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form, submitting these to DentaQuest, along with photographs of the appellant's mouth and two radiographs (Exh. 3).

On the HLD Form, the orthodontist indicates whether the child has a cleft palate, deep impinging overbite, anterior impactions, severe traumatic deviations, an overjet greater than 9 millimeters, a reverse overjet greater than 3.5 millimeters, or severe maxillary anterior or mandibular anterior crowding greater than 8 millimeters (mm.), collectively referred to as "autoqualifiers" (Testimony).

If any autoqualifiers are present, the request for orthodontic treatment is approved. If no autoqualifiers are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread, and posterior unilateral crossbite and gives each measurement a value based on the calculation worksheet on the HLD Form. An HLD score of 22 or over constitutes a severe, disfiguring and handicapping malocclusion (Testimony).

In the appellant's case, [REDACTED] documented on the appellant's HLD Form that he measured severe crowding of the appellant's anterior teeth in the amount of 10 mm. or more, an autoqualifier for treatment. [REDACTED] did not specify on what arch the severe anterior crowding was located. Because he located an autoqualifier for treatment, he did not go on to score other aspects of the appellant's bite on the HLD Form (Exh. 3)

The MassHealth representative testified that in order for MassHealth to cover orthodontic treatment, the member must have a severe, disfiguring and handicapping malocclusion. The MassHealth representative stated that an HLD score of 22 is the minimum score indicative of a severe, disfiguring and handicapping malocclusion. The MassHealth representative obtained permission from the appellant's mother to examine the appellant's bite at hearing. The MassHealth representative testified that based on his examination of the appellant's bite, he measured an overjet of 4 mm. (worth four points on the HLD Form), an overbite of 5 mm. (worth five points on the HLD Form), crowding of the appellant's anterior teeth on the upper jaw in the amount of 7.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form). He located no autoqualifiers for comprehensive orthodontic treatment. The total HLD score calculated for the appellant by the MassHealth representative was 17 points (Testimony).

The appellant's mother testified through a Spanish interpreter that the appellant feels uncomfortable smiling due to his malocclusion. She added that the appellant cannot return to his

high school for his senior year because of the bullying he has endured due to the appearance of his teeth. The MassHealth representative indicated that if the appellant's orthodontist can, with a new PA request, submit a letter of medical necessity from a mental health clinician attesting to a diagnosed mental, emotional or behavioral condition caused by the appellant's malocclusion, that letter may provide a separate basis on which comprehensive orthodontic treatment may be approved (Testimony).

The appellant testified that he does receive therapy for anxiety. He submitted into evidence a copy of a [REDACTED] 2023 letter from his primary care physician, [REDACTED] at [REDACTED] Hospital, which states:

[The appellant] is my primary care patient. He has lost significant weight and finds it difficult to eat partly due to his teeth. He is experiencing significant mental health challenges with bullying related to the appearance of his teeth. . . .

(Exh. 5)¹

At the close of the hearing, the hearing officer left the appeal record open for two weeks for the appellant to submit a letter of medical necessity from a mental health clinician attesting to a diagnosed mental, emotional or behavioral condition caused by the appellant's malocclusion, and for an additional two weeks for the MassHealth representative to review such a letter and respond whether MassHealth might alter its decision to deny comprehensive orthodontic treatment to the appellant.

On August 30, 2023, the hearing officer received via e-mail from [REDACTED] a clinical mental health counselor with [REDACTED] in [REDACTED] a letter reflecting that the appellant has been her patient since [REDACTED] 2023, and also reflecting the following:

In my clinical opinion, [the appellant's] malocclusion has contributed to low self-esteem. This then in turn has contributed to increased anxiety and social anxiety symptoms.

(Exh. 6)²

On the same date, the hearing officer forwarded the letter from [REDACTED] by e-mail to the MassHealth representative for the latter's review.

On September 21, 2023, the MassHealth representative sent an email communication to the hearing officer, stating that he had reviewed the letter of medical necessity from [REDACTED] and also:

¹ The MassHealth representative reviewed this letter at hearing in the presence of the hearing officer.

² [REDACTED] also forwarded via e-mail a signed release authorizing her to share protected health information with the hearing officer (Exh. 6A).

Medical Necessity Narratives (*sic*) did not conform to Guidelines for Medical Necessity. Unfortunately, denial for Orthodontic Treatment by MassHealth is Upheld.

(Exh. 7)

Findings of Fact

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

1. The appellant is a [REDACTED] year-old MassHealth member (Exh. 3).
2. The appellant's orthodontist, [REDACTED] submitted a PA request for comprehensive orthodontic treatment for the appellant on [REDACTED] 2023 (*Id.*).
3. Dr. [REDACTED] completed an Orthodontics Prior Authorization Form and a HLD Form, and submitted these along with photographs of the appellant's mouth and two radiographs to DentaQuest (*Id.*).
4. [REDACTED] asserted on the HLD Form that the appellant has an autoqualifier for treatment, *to wit*, measured severe crowding of the appellant's anterior teeth of 10 mm. or more (*Id.*).
5. The MassHealth representative is an orthodontist who is licensed to practice dentistry in the Commonwealth of Massachusetts.
6. The MassHealth representative obtained parental permission to examine the appellant's bite.
7. Based on his examination of the appellant at hearing, the MassHealth representative measured an overjet of 4 mm. (worth four points on the HLD Form), an overbite of 5 mm. (worth five points on the HLD Form), crowding of the appellant's anterior teeth on the upper jaw in the amount of 7.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form) (Testimony).
8. The MassHealth representative did not locate any autoqualifiers for treatment (Testimony).
9. Based on his examination of the appellant, the MassHealth representative calculated a total HLD score for the appellant of 17 points (Testimony).
10. The appellant submitted letters of medical necessity from his primary care physician and from a mental health counselor, respectively, corroborating the presence of a mental health condition, anxiety, caused by his malocclusion (Exhs. 5 and 6).

Analysis and Conclusions of Law

130 CMR 420.431 contains the relevant MassHealth regulation addressing how a MassHealth member may receive approval on a prior authorization request for comprehensive orthodontic treatment. The regulation reads as follows:

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.

(B) Definitions.

(1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(C) Service Limitations and Requirements.

(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's 21st birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.

(2) Interceptive Orthodontics.

(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.

(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion, including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.

(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.

(3) 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 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 first 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.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-day) basis for ongoing orthodontic maintenance and treatment beginning after the initial placement, and insertion of the orthodontic fixed and removable appliances. If a

member becomes inactive for any period of time, prior authorization is not required to resume orthodontic treatment visits and subsequent billing, unless the prior authorization time limit has expired. The provider must document the number and dates of orthodontic treatment visits in the member's orthodontic record.

(5) Orthodontic Case Completion. The MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

(6) 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.

(7) Orthodontic Terminations. The MassHealth agency requires providers to make all efforts to complete the active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number.

(8) Radiographs. Payment for Cephalometric and radiographs used in conjunction with orthodontic diagnosis is included in the payment for comprehensive orthodontic treatment (see 130 CMR 420.423(D)). The MassHealth agency pays for radiographs as a separate procedure for orthodontic diagnostic purposes only for members younger than 21 years old if requested by the MassHealth agency.

(9) Oral/Facial Photographic Images. The MassHealth agency pays for digital or photographic prints, not slides, only to support prior-authorization requests for comprehensive orthodontic treatment. Payment for digital or photographic prints is included in the payment for comprehensive orthodontic treatment or orthognathic treatment. The MassHealth agency does not pay for digital or photographic prints as a separate procedure (see 130 CMR 420.413). Payment for orthodontic treatment includes payment for services provided as part of the pre-orthodontic treatment examination, unless the MassHealth agency denies the prior authorization request for interceptive or comprehensive orthodontic treatment. The MassHealth agency pays for the pre-orthodontic treatment examination if prior authorization is denied for interceptive or comprehensive orthodontic treatment.

MassHealth uses the HLD Form as a tool to determine if a member has a severe, disfiguring and handicapping malocclusion. If a member does not have an autoqualifier, then measurements are taken of the member's overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower arch, labio-lingual spread, and posterior unilateral crossbite, and each measurement is given a value based on the calculation worksheet on the HLD Form. A HLD score of 22 is the minimum score which indicates a severe, disfiguring and handicapping malocclusion.

In addition, the MassHealth Dental Program Office Reference Manual (ORM) (effective September 16, 2023), at Section B-2 (page 58), states as follows:

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 skeletal 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;**

...

(Emphasis added)

The ORM also states in relevant part:

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; a nutritional deficiency; a speech or language pathology; or the presence of any other 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 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.

(*Id.*, p. 58)

Here, the appellant's HLD score did not qualify him for comprehensive orthodontic treatment, according to MassHealth.

At hearing, the appellant submitted one letter of medical necessity from his primary care doctor attesting to significant mental health challenges due to bullying he has experienced based on the appearance of his teeth.

Following the hearing, a second letter of medical necessity was received from the appellant's mental health counselor, attesting to his low self-esteem, anxiety and social anxiety related to the appellant's malocclusion.

MassHealth opined, following review of these letters, that the medical necessity narratives did not conform to guidelines for medical necessity. I disagree.

Based on a preponderance of the evidence, the appellant has shown that he has a diagnosed mental health condition, anxiety, caused by his malocclusion. The medical necessity narratives included in the record support this conclusion.

Therefore, MassHealth's decision to deny the appellant's request for comprehensive orthodontic treatment is reversed.

This appeal is APPROVED.

Order for MassHealth

Send the appellant and his treating orthodontist letters of approval for procedure D8080, comprehensive orthodontic treatment.

Implementation of this Decision

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

Paul C. Moore
Hearing Officer
Board of Hearings

cc: DentaQuest appeals representative