

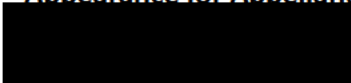
Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2305582
Decision Date:	09/22/2023	Hearing Date:	08/16/2023
Hearing Officer:	Christopher Jones	Record Open to:	09/01/2023

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan

Interpreter:

ITI - Carlos Duenas



*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; Comprehensive Orthodontia; Auto- Qualifier; Crowding
Decision Date:	09/22/2022	Hearing Date:	08/16/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
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 May 29, 2023, MassHealth denied the appellant's prior authorization request for comprehensive orthodontia. (See Exhibit 1.) The appellant filed this appeal in a timely manner on July 8, 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 request for comprehensive orthodontia.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant is ineligible for comprehensive orthodontia because he does not have permanent premolars and first molars.

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 an "Crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth." The provider also measured the appellant's HLD Score to be 33 points. (Exhibit 4, pp. 7, 9-15.)

DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant was ineligible for comprehensive orthodontic treatment. (Exhibit 4, p. 16.) At the hearing, Dr. Kaplan testified that MassHealth only pays for comprehensive orthodontia when the member has all of their permanent premolars and first molars. The appellant does not have his permanent bicuspid (premolars) yet. He testified that the appellant had an anterior crossbite, which does require treatment to prevent further damage, but explained that the provider should have requested interceptive orthodontic treatment. Interceptive treatment allows for an orthodontist to take steps to alleviate serious conditions in the primary or transitional dentition. Dr. Kaplan suggested that the appellant's orthodontist could consider limited treatment such as a palatal expander and limited upper braces to correct the cross bite. However, because he was not the treating orthodontist, he was unable to recommend a specific treatment plan.

The appellant's mother testified through an interpreter that their orthodontist had told them that treatment needed to be started soon, and he already put an appliance in the appellant's lower teeth. She had an appointment for July 11 to get started because the orthodontist told her that the procedure would definitely be covered, but a friend told her to go through with the appeal, so she cancelled the appointment. She testified that her provider told her if she does upper braces now, it will be \$1,000 but to do upper and lower braces later would be \$5,000. She was also told that if they did not start treatment soon, the appellant's teeth could become loose and fall out. The orthodontist even put something on the appellant's lower teeth, which Dr. Kaplan identified as a space maintainer. The appellant was informed that the provider would be paid if they appropriately billed MassHealth for the interceptive treatment the appellant required.

The appellant's mother was upset at hearing both that her son needed treatment soon and that the provider had not requested the correct services. She asked that the record be left open for the appellant's provider to be told that they needed to request interceptive treatment, and for DentaQuest to review that request. The appellant's mother and the provider were both copied on an email leaving the record open until September 1, 2023, but no response was received.

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 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth." The provider also measured the appellant's HLD Score to be 33 points. (Exhibit 4, pp. 7, 9-15.)
2. MassHealth denied comprehensive orthodontia because the appellant does not have permanent premolars. (Exhibit 4, p. 16; testimony by Dr. Kaplan.)
3. The appellant would be eligible for interceptive orthodontia to treat his primary and transitional dentition to protect his teeth while his permanent premolars come in. (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 "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." However, "[c]omprehensive 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." (130 CMR 420.431(C)(3) (emphasis added).)

Alternatively, "interceptive orthodontic treatment" is available to treat "primary and transitional dentition" (130 CMR 420.431(C)(2)(b).) The appellant does not have a craniofacial anomaly, nor does he have permanent premolars. Therefore, he is ineligible for comprehensive orthodontia at this time. This appeal must be DENIED.

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 July 31, 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 July 31, 2023.)

The appellant and their provider are welcome to explore interceptive treatment options and resubmit a request for interceptive orthodontia at any time to prevent any worsening of the appellant's bite while his permanent premolars come in.

Based upon the appellant's mother's testimony, it is worth noting that a MassHealth provider may **not** "solicit, charge, receive, or accept any money, gift, or other consideration from a member, or from any other person, for any item or medical service for which payment is available under MassHealth" (130 CMR 450.203(A).) This decision takes no position on whether or not the appellant's provider did or did not solicit payment from the appellant's mother for a treatment that is not covered instead of offering an alternative treatment that would be covered.

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 2, MA