

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306822
Decision Date:	11/28/2023	Hearing Date:	10/16/2023
Hearing Officer:	Patrick Grogan	Record Open to:	N/A

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan

Interpreter:

N/A



*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:	Preauthorization for orthodontic treatment
Decision Date:	11/28/2023	Hearing Date:	10/16/2023
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 July 19, 2023, MassHealth denied the Appellant's application for prior approval for orthodontic treatment (Exhibit 1). The Appellant filed this appeal in a timely manner on August 10, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

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

Issue

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

Summary of Evidence

The Appellant is currently a MassHealth member under the age of 18, who was represented at hearing by her mother. MassHealth was represented by Dr. Harold Kaplan, an 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.

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.

The Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the Appellant's orthodontic provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 21. (Exhibit 5, pg. 10-11) Dr. Kaplan testified that, on the HLD point scale, a score of 22 points is needed for approval. DentaQuest's evaluation returned a score of 14 on the HLD point scale. (Exhibit 5, pg. 16) Dr. Kaplan testified that he calculated a score of 16 on the HLD point scale after evaluating the Appellant in-person at the Hearing. (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 find an Autoqualifier was present. (Exhibit 5, pg. 10-11) Dr. Kaplan's testimony reveals that he did not find an Autoqualifier was present, and evidence submitted by DentaQuest also shows, in their review, no Autoqualifier was found at this time. (Testimony. Exhibit 5, pg. 16))

Regardless of point total, 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 indicate a medical necessity narrative was submitted, nor was any additional supporting documentation submitted. Moreover, Dr. Kaplan's examination and testimony as well as DentaQuest's submitted evidence do not support a medical necessity determination at this time. (Testimony, Exhibit 5)

The Appellant's mother testified that the Appellant had had 5 teeth pulled as well as other oral surgery procedures. (Testimony) The Appellant's mother took issue with Dr. Kaplan, a consultant for Dentaquest, testifying on behalf of Dentaquest. (Testimony). The Appellant's mother stated that she wanted an independent evaluation. (Testimony) The Appellant did have an independent evaluation, by her chosen orthodontic provider. (Exhibit 5). The Appellant's own chosen independent orthodontic provider's submission also found an HLD score below 22 points. (Exhibit 5, pg. 10-11)

Findings of Fact

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

1. The Appellant is currently a MassHealth member under the age of 18, who had a request for prior approval for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1)
2. The Appellant's orthodontist returned an HLD score of 21 points on the HLD index form. (Testimony; Ex. 5, p. 10-11)
3. Dentaquest returned an HLD score of 14 points on the HLD index form. (Testimony; Ex. 5, p. 16)
4. Dr. Kaplan returned a score above 16 on the HLD score on the HLD index form. (Testimony)
5. The Appellant's orthodontic provider did not find an Autoqualifier was present. (Ex. 5, p. 10-11)
6. Dentaquest did not find an Autoqualifier was present. (Ex. 5, p. 16)
7. Dr. Kaplan did not find an Autoqualifier was present. (Testimony)
8. The Appellant's orthodontic provider did not submit any documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Testimony; Ex. 5, p. 10-11).
9. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 5)
10. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time (Testimony).

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 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 5. 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

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 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>.

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). See also Fisch v. Board of Registration in Med., [437 Mass. 128](#), 131 (2002); Faith Assembly of God of S. Dennis & Hyannis, Inc. v. State Bldg. Code Commn., [11 Mass. App. Ct. 333](#), 334 (1981); Haverhill Mun. Hosp. v. Commissioner of the Div. of Med. Assistance, [45 Mass. App. Ct. 386](#), 390 (1998). On this record, the Appellant has not demonstrated the invalidity of the denial of preauthorization for braces. No Autoqualifier condition is present in this record. No HLD score of 22 or higher is present in this record. No Medical Necessity was requested or properly supported in this record as required by the Regulations.

In this case, regarding an Autoqualifier condition, the Appellant's orthodontic provider did not indicate the presence of an Autoqualifier condition. (Ex.5, p. 10-11) DentaQuest did not calculate any presence of an Autoqualifier condition. (Ex. 5, p. 16) Dr. Kaplan did not observe any presence of an Autoqualifier condition in his in-person examination at the Hearing. (Testimony) I find no Autoqualifier condition is met in this case based on the evidence presented at this time.

Additionally, a review of the 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 or above on the HLD index. Here, the Appellant's orthodontic provider calculated a score of 21 points. (Exhibit 5, pg. 11). DentaQuest calculated a score of 14 points. (Exhibit 5, pg. 16). Dr. Kaplan, in his in-person examination at the Hearing testified that he calculated a score of 16 points. (Testimony). Based on this record, where none of the reviewing orthodontists, including the Appellant's chosen orthodontist, returned a score of 22 or above on the HLD form, the Appellant cannot meet the target score of 22 of the HLD index form at this time. Therefore, I find the HLD Index score of 22 or more points is not met in this case based on the evidence presented in this record.

Regarding a Medical Necessity determination, the Appellant's orthodontic provider did not indicate the presence of a medical necessity and did not include a separate Medical Necessity Narrative and documentation to justify a Medical Necessity determination for the request for braces. (Ex. 5, p. 12). Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Exhibit 5, Testimony) I find no medical necessity is met in this case based on the evidence presented at this time.

Therefore, since the Appellant has not met her burden to demonstrate the invalidity of the MassHealth's denial of pre-authorization for orthodontic services, this 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.

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.

Patrick Grogan
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 2, MA