

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2306879
Decision Date:	11/1/2023	Hearing Date:	09/11/2023
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan

Interpreter:



*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:	PA-Dental Services
Decision Date:	11/1/2023	Hearing Date:	09/11/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South 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 July 27, 2023, MassHealth denied appellant's prior authorization for total orthodontics. (Ex.1). The appellant filed this appeal in a timely manner on August 8, 2023. (130 CMR 610.015(B); Ex. 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

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

Summary of Evidence

Appellant is currently an [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented by Dr. Harold Kaplan, a board-certified 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. Appellant, his mother and Dr. Kaplan appeared in person in Quincy.

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.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 19. (Ex. 4, p. 7). Dr. Kaplan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Kaplan testified that he found a score of 19 on the scale. (Testimony). DentaQuest reached a score of 17. (Ex. 4, p. 14).

Regardless of point total, it is also possible to qualify for orthodontic treatment if appellant has a condition deemed an automatic qualifier. Here, appellant's provider found an automatic qualifier of impactions. (Ex. 4, p. 7). Dr. Kaplan testified he did not find an automatic qualifier present at this time. He stated it was too soon to tell because the tooth in question might come into the mouth ectopically, which means come into the mouth but not in the right position. The evidence submitted by DentaQuest also shows, in their review, no automatic qualifier was present. (Testimony; Ex. 4, p. 14).

Appellant's mother agreed the only issue is the potential impacted tooth. She stated that was her biggest concern.

Findings of Fact

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

1. Appellant is currently an [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony; Ex. 1; Ex. 4, p. 1-3).

2. Neither the initial DentaQuest review nor the review testified to by Dr. Kaplan found evidence of 22 or more points on the HLD scale. (Ex. 4, p. 14; Testimony).
3. Appellant's provider submitted an HLD score of 19 points. (Ex. 4, p. 7).
4. Appellant's provider found an auto qualifier present. (Testimony; Ex. 4, p. 7).
5. Neither Dr. Kaplan nor DentaQuest found an auto qualifier present. (Testimony; Ex. 4, p. 14).
6. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 4, p. 8).
7. Dr. Kaplan's testimony does not support a Medical Necessity determination at this time. (Testimony).
8. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 4).

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. (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. (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.

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>.

...

(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 4. 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 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). On this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

In this case, appellant's orthodontist indicated the presence of an automatic qualifier condition, namely an impaction. (Ex. 4, p. 7). However, Dr. Kaplan testified, after his in person examination of appellant's mouth, that he would not call it an impaction at this time. MassHealth will not approve because you must wait for the condition to occur and it is too soon to conclude the tooth is impacted. (Testimony). Therefore, he found no auto qualifying condition to be present. (Testimony). DentaQuest, in its review, also found no auto qualifier present. (Ex. 4, p. 14). Dr. Kaplan's assessment, testimony, and explanation about how it was too soon to determine if the tooth in question was impacted was logical and consistent with the evidence and his presence subjecting him to cross-examination gave his opinion greater weight.

Turning to the HLD scores to see 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 on the HLD index. (Testimony). In this case, appellants orthodontist found a score of 19 points. (Ex. 4, p. 7). In his testimony, Dr. Kaplan found an HLD score of 19. (Testimony). The review by DentaQuest

obtained a score of 17. (Ex. 4, p. 14). The record is clear that none of the three reviewing dentists who completed an HLD review, including the appellant's own orthodontic provider, found a score of 22 or more points needed for approval.

In this case, appellant's orthodontist did not submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces. (Ex. 4, p. 8). Moreover, Dr. Kaplan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Exhibit 4; Testimony). I find no medical necessity is met in this case based on the evidence presented at this time.

Therefore, the 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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA