

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2307296
Decision Date:	12/7/2023	Hearing Date:	10/23/2023
Hearing Officer:	Susan Burgess-Cox	Record Open to:	12/1/2023

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:	Denied	Issue:	Prior Authorization
Decision Date:	12/7/2023	Hearing Date:	10/23/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Mother
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 August 14, 2023, MassHealth denied appellant's prior authorization request for comprehensive orthodontic treatment. (Exhibit 1). The appellant filed a timely appeal on September 5, 2023. (Exhibit 2). A hearing was scheduled for October 5, 2023. (Exhibit 3). At the request of the appellant and a determination of good cause, the Board of Hearings rescheduled the hearing for October 23, 2023. (Exhibit 4; Exhibit 5).

Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

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

Issue

Whether MassHealth was correct in denying the appellant's prior authorization request for comprehensive orthodontic treatment.

Summary of Evidence

The appellant submitted a prior authorization request for comprehensive orthodontic treatment. MassHealth denied this request as the appellant's condition did not rise to the level that would allow MassHealth to authorize coverage for treatment.

In determining whether a member will qualify for MassHealth coverage of orthodontic treatment, the agency uses the Handicapping Labio-Lingual Deviations Form (HLD). The HLD is a quantitative, objective method for measuring a malocclusion. The HLD provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. For MassHealth to approve prior authorization for treatment, the patient would have to have a handicapping malocclusion. Such patients need to have a HLD score of 22 or higher to meet that requirement. Additionally, some auto-qualifying conditions are considered as a handicapping malocclusion.

Autoqualifying conditions include: a cleft lip, cleft palate or other cranio-facial anomaly; an impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviations; an overjet greater than 9 millimeters (mm); a reverse overjet greater than 3.5 mm; crowding of 10 mm or more; spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding third molars); an anterior crossbite of 3 or more of the maxillary teeth per arch; a posterior crossbite of 3 or more of the maxillary teeth per arch; two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant; a lateral open bite of 2 mm or more; and an anterior open bite of 2 mm or more. (MassHealth Dental Manual, Appendix D).

The appellant's provider gave a score of 9. An orthodontist from DentaQuest, the agency that oversees the MassHealth Dental Program, reviewed the appellant's records and gave a score of 6. The MassHealth representative at hearing, a licensed orthodontist, reviewed the appellant's records, performed an examination at hearing and gave a score of 12. None of the orthodontists indicated that the appellant had an autoqualifying condition. The MassHealth representative at hearing noted that all three orthodontists scored below the required 22 points so he could not make any adjustments to the original decision.

The appellant's orthodontist submitted a letter from the appellant's pediatrician stating that the alignment of the appellant's teeth has contributed to some chronic jaw pain and the appearance of her teeth has affected her self-esteem. The physician does not list any specific diagnoses or history of treatment related to either condition.

The appellant's mother noted that she had a hearing in March 2023 regarding the same issue. The appellant's mother presented medical records from [REDACTED] to note several medical conditions including a diagnosis of Tourette's syndrome in [REDACTED] a visit with a Rheumatologist in [REDACTED] and a visit with an Otolaryngologist in [REDACTED]. None of the records indicate any relation of orthodontic treatment to the conditions listed by the various physicians. Additionally, the records note improvement or changes from prior visits.

The appellant's mother presented a document titled "Medical Necessity Statute". The form cites a regulation, not a statute, governing medical necessity for MassHealth services. The document provides a "statute-based flow chart" for individuals to indicate that orthodontic services for their child is medically necessary. Again, the flow chart appears to be based on a regulation, not a statute. The document includes instructions and indicators as to how an individual may "deserve" coverage for medical necessity. (Exhibit 6). The form states that you will most likely deserve coverage for medical necessity if: your child is in pain or your child is mentally harmed by their condition. The boxes checked on the form are those specifically pointed to with arrows by the creator of the form. The form states that an individual can use the form even though there are arrows and instructions on the form. The form has the name of [REDACTED], President, Medicaid Orthodontists of Massachusetts Association. [REDACTED] is not the orthodontist who submitted the prior authorization request on appeal. It appears that the form was filled out by the appellant's mother, not a treating physician, dentist or orthodontist.

The appellant's mother testified that the appellant has a [REDACTED] and [REDACTED]. [REDACTED] The record was held open to provide the appellant's mother with the opportunity to present additional evidence including more recent diagnoses or treatment. No documents were received by the Board of Hearings or the MassHealth representative. The MassHealth representative reviewed the records presented at hearing and noted that while the appellant had other medical conditions, he continued to uphold the decision on appeal.

Findings of Fact

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

1. The appellant requested prior authorization for comprehensive orthodontic treatment.
2. The appellant is under 21 years of age.
3. The appellant's orthodontist gave an HLD score of 9 and did not indicate any other type of handicapping malocclusion.

4. An orthodontist from DentaQuest, performing a review of the appellant's records gave a score of 6 and did not find any other type of handicapping malocclusion.
5. In reviewing the records submitted by the appellant's orthodontist and performing an examination of the appellant, the MassHealth representative at hearing gave an HLD score of 12 and did not find any other type of handicapping malocclusion.
6. The appellant's pediatrician indicated that the alignment of the appellant's teeth has contributed to some chronic jaw pain and the appearance of her teeth has affected her self-esteem.
7. The appellant's physician does not list any specific diagnoses or history of treatment related to either condition.
8. The appellant was diagnosed with Tourette's syndrome in [REDACTED]

Analysis and Conclusions of Law

MassHealth pays only for medically necessary services to eligible MassHealth members and may require that medical necessity be established through the prior authorization process. (130 CMR 420.410(A)(1)). A service is "medically necessary" if:

- (1) it is reasonably calculated to prevent, diagnose, prevent the worsening of, alleviate, correct, or cure conditions in the member that endanger life, cause suffering or pain, cause physical deformity or malfunction, threaten to cause or to aggravate a handicap, or result in illness or infirmity; and
- (2) there is no other medical service or site of service, comparable in effect, available, and suitable for the member requesting the service, that is more conservative or less costly to MassHealth. (130 CMR 450.204(A)).

Services requiring prior authorization are identified in Subchapter 6 of the Dental Manual, and may also be identified in billing instructions, program regulations, associated lists of service codes and service descriptions, provider bulletins, and other written issuances. (130 CMR 420.410(A)(2)). The Dental Manual indicates that Orthodontic Treatment requires prior authorization. (MassHealth Dental Manual Subchapter 6).

Pursuant to 130 CMR 420.431(C)(3), MassHealth 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. MassHealth determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual. (130 CMR 420.431(C)(3)).

Appendix D of the MassHealth Dental Manual provides a copy of the Handicapping Labio-Lingual Deviations Form (HLD) which is a quantitative, objective method for measuring malocclusion. (MassHealth Dental Manual, Appendix D). The HLD allows for the identification of certain autoqualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. (MassHealth Dental Manual, Appendix D). Treatment will be authorized for cases with a verified autoqualifier or verified score of 22 and above. (MassHealth Dental Manual, Appendix D; 130 CMR 420.431(C)(3)).

Autoqualifying conditions include: a cleft lip, cleft palate or other Cranio-Facial Anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviations; overjet greater than 9 millimeters (mm); reverse overjet greater than 3.5 mm; crowding of 10 mm or more; spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding third molars); an anterior crossbite of 3 or more of the maxillary teeth per arch; a posterior crossbite of 3 or more of the maxillary teeth per arch; two or more congeniality missing teeth (excluding third molars) of at least one tooth per quadrant; a lateral open bite of 2 mm or more; and an anterior open bite of 2 mm or more. (MassHealth Dental Manual, Appendix D).

While the appellant may benefit from orthodontic treatment, the regulations clearly limit eligibility for such treatment to patients with handicapping malocclusions. (130 CMR 420.431(C)(3)). As stated above, to have a handicapping malocclusion, an individual must have a verified HLD score of 22 or higher or a verified autoqualifying condition. In this case, the appellant did not meet the threshold score on the HLD or have any autoqualifying condition.

MassHealth allows providers to submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. (MassHealth Dental Manual, Appendix D). Providers must submit this narrative in cases where the patient does not have an autoqualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. (MassHealth Dental Manual, Appendix D). The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. (MassHealth Dental Manual, Appendix D).

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. (MassHealth Dental Manual, Appendix D).

The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. (MassHealth Dental Manual, Appendix D). If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s) and appear on office letterhead of such clinician(s). (MassHealth Dental Manual, Appendix D). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative. (MassHealth Dental Manual, Appendix D)

In this case, the appellant's orthodontist provided a brief, vague letter from the appellant's pediatrician noting support for orthodontic treatment. The letter states that the alignment of the appellant's teeth has contributed to some chronic jaw pain and the appearance of her teeth has affected her self-esteem. The statement does not show any history or considerations of other treatments or provide a clear diagnosis or link to support the orthodontist's justification of medical necessity for orthodontic treatment. The records presented by the appellant's mother speak to a variety of other conditions but none appear to link to the need for orthodontic treatment. Additionally, the records are from more than one year prior to the hearing so may not accurately reflect the appellant's current condition.

The document presented regarding the "Medical Necessity Statute" appears to be something created to guide individuals on how to demonstrate that orthodontic treatment is medically necessary, it does not appear to be a document that was utilized by a medical practitioner to present a diagnosis.

The documents presented to MassHealth and at hearing did not clearly demonstrate that comprehensive orthodontic treatment was medically necessary. (130 CMR 420.410; 130 CMR 420.431(C); 130 CMR 450.204). The decision by MassHealth denying prior authorization for comprehensive orthodontic treatment was correct.

This appeal is denied.

As noted by the MassHealth representative at hearing, if the appellant's dental condition should worsen, a new prior authorization request can be filed at that time.

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.

Susan Burgess-Cox
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA