

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308065
Decision Date:	11/17/2023	Hearing Date:	10/13/2023
Hearing Officer:	Christopher Jones	Record Open to:	10/27/2023

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; Comprehensive Orthodontia; HLD Score
Decision Date:	11/17/2023	Hearing Date:	10/13/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Pro se; 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 September 1, 2023, MassHealth denied the appellant's prior authorization request for comprehensive orthodontia. (See Exhibit 1.) The appellant filed a timely telephonic appeal on September 8, 2023. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Because the appellant's current provider's request for coverage was not in the record, the hearing record was left open until October 27, 2023, for it to be submitted and reviewed.

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 she does not

have 22 points when scored using the Handicapping Labio-Lingual Deviations Form.

Summary of Evidence

On or around August 15, 2022, the appellant's old orthodontist submitted a prior authorization request seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations ("HLD") Form. This HLD form identified the appellant as having "Impactions where eruption is impeded but extraction is not indicated (excluding third molars)." The provider also measured the appellant's HLD Score to be 27 points. (Exhibit 5, pp. 6-15.)

An orthodontist for DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant's HLD Score was 20, and they did not agree that she had at any impacted teeth. (Exhibit 5, p. 16.) At the hearing Dr. Kaplan testified that MassHealth only pays for orthodontia when the member's bite is sufficiently severe to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion." This scale looks at characteristics of a bite to measure how the teeth work. Many children may need orthodontic care but do not meet MassHealth's definition of a physically handicapping bite.

Dr. Kaplan evaluated the appellant's bite in person and testified that the tooth identified as impacted on the submitted request has since erupted into the mouth. Therefore, the auto-qualifying condition did not exist. He also testified that his measurement agreed with the one made by DentaQuest based upon the images. He only found 20 points. Part of this score was premised upon not getting points for an impacted posterior tooth.

The appellant's mother was shocked that MassHealth was reviewing the prior authorization request from last year. She testified that she did not want that provider's request reviewed, and she did not trust that provider. She testified that the appellant is now going to a new orthodontist who she likes a lot and trusts. She was asked if she had a copy of the request from her current provider, because it was never received by DentaQuest, and it had not been submitted into the administrative record. She testified, repeatedly, that everything had already been sent, but the record was left open, and she was instructed to have her new provider submit their request for comprehensive orthodontia directly to the Board of Hearings. Whatever was submitted would be forwarded to DentaQuest for review to ensure that everyone has the same documentation.

Submitted during the record open period was a different denial notice, dated August 20, 2023, an x-ray, and a photograph. No HLD Form was submitted. The appellant was informed that the HLD Form was needed to evaluate what her current orthodontist saw that qualified the appellant for coverage. Dr. Kaplan had seen the appellant in person; therefore, his opinion was based upon her current dental status, not based solely upon the year-old images. The appellant's mother responded that everything had been sent, so she did not understand why it was not received. She declined to have her orthodontist resend a complete HLD Form.

Findings of Fact

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

1. Through a notice dated September 1, 2023, MassHealth denied a prior authorization request for comprehensive orthodontia submitted by the appellant's behalf on August 15, 2022. An orthodontist for DentaQuest reviewed the submitted images and found an HLD Score of 20 points. (Exhibits 1; 5.)
2. This was an old prior authorization request submitted with an HLD Form that found an autoqualifier due to an impacted tooth and an HLD Score of 27 points. The appellant's mother did not want it to be considered as part of this appeal. (Exhibit 5; Testimony by the appellant's mother.)
3. Dr. Kaplan reviewed the images submitted with the old prior authorization request, and he evaluated the appellant in person. The tooth that was identified as impacted had erupted, and he was only able to measure an HLD Score of 20 points. (Testimony by Dr. Kaplan.)
4. On or around August 20, 2023, the appellant's new provider submitted an x-ray and photograph, requesting prior authorization for comprehensive orthodontia. (Exhibit 7.)
5. No HLD Form was attached to this request, and it was denied. (Exhibit 7.)
6. The appellant declined further opportunity to submit an HLD Form from her current orthodontist. (Exhibit 6.)

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." The regulations do not speak directly to what conditions qualify as "severe and handicapping"

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 November 15, 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 November 15, 2023.)

except to specifically cover “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.” (130 CMR 420.431(C)(3).)

The HLD Form is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth made a policy decision that a score of 22 or higher signifies a “severe and handicapping malocclusion,” ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping: “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 – This refers to accidents affecting the face and jaw rather than congenital deformity. Do not include traumatic occlusions or crossbites”; “Overjet (greater than 9mm)”; “Reverse Overjet (greater than 3.5mm)”; “Crowding of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth”; “Spacing of 10 mm or more, in either the maxillary or mandibular arch (excluding 3rd molars). Includes the normal complement of teeth”; “Anterior crossbite of 3 or more maxillary teeth per arch”; “Posterior crossbite of 3 or more maxillary teeth per arch”; “Two or more congenitally missing teeth (excluding third molars) of at least one tooth per quadrant”; “Lateral open bite: 2 mm or more; of 4 or more teeth per arch”; and “Anterior open bite: 2 mm or more; of 4 or more teeth per arch.” The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

Fair hearings exist to give an appellant the opportunity to present evidence regarding how MassHealth’s decision was in error. (See 130 CMR 610.061.) A hearing officer must facilitate the orderly presentation of evidence at the hearing, can consider evidence’s effect on a member’s eligibility as of the date it existed, and afford the parties the opportunity to respond to evidence first presented at a hearing. (See 130 CMR 610.065; 130 CMR 610.071.) An appellant generally bears the burden to prove his or her eligibility. (See G.L. ch. 118E, § 20.)

This appeal must be DENIED. The only evidence in the record that suggests that the appellant qualifies for orthodontic coverage is the HLD Form submitted in August 2022. The appellant does not want the old prior authorization request considered as part of this appeal, and the appellant’s mother cast the credibility of that orthodontist into doubt herself. However, there is no new HLD Form to showing the appellant’s current orthodontist believes her to be eligible for coverage for comprehensive orthodontia. In the absence of any other opinions, I credit Dr. Kaplan’s opinion that the appellant’s HLD Score is only 20 points and there is no auto-qualifier.

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 1, MA