

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2308423
Decision Date:	12/22/2023	Hearing Date:	10/18/2023
Hearing Officer:	Rebecca Brochstein	Record Open Date:	12/26/2023

Appearances for Appellant:



Appearances for MassHealth:

Dr. Harold Kaplan



*Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
Board of Hearings
100 Hancock Street
Quincy, MA 02171*

APPEAL DECISION

Appeal Decision:	Approved	Issue:	Prior Approval for Orthodonture
Decision Date:	12/22/2023	Hearing Date:	10/18/2023
MassHealth Rep.:	Dr. Harold Kaplan	Appellant Rep.:	Appellant's Mother
Hearing Location:	Tewksbury MassHealth Enrollment Center (Telephonic)		

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated September 5, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on September 18, 2023 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior authorization is a valid basis for appeal (130 CMR 610.032). After hearing on October 18, 2023, the record was held open for additional evidence (Exhibit 5).

Action Taken by MassHealth

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

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

MassHealth was represented at hearing by an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on August 30, 2023. The provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, indicating that the appellant is eligible for automatic approval because of impacted teeth as well as crowding that exceeds 10 mm. MassHealth reviewed the prior authorization request and determined that the appellant did not qualify for coverage of orthodontic treatment because her first premolars and permanent first molars had not yet erupted. On September 5, 2023, MassHealth denied the prior authorization request.

The MassHealth orthodontist testified that MassHealth does not start comprehensive orthodontic treatment until all four of the first bicuspid and all four of the first molars have erupted. He stated that as of August 30, 2023, when the provider submitted the prior authorization request with X-rays and photographs, the appellant's lower first bicuspid had not yet erupted.

The appellant's mother appeared at the hearing telephonically and testified on her daughter's behalf. She stated that the appellant has lost two teeth (one on top, one on bottom) since the records were taken on August 30. She argued that the appellant clearly has a medical need for orthodontic treatment and that treatment should begin even though she still has some baby teeth. She stated that the appellant suffers from severe anxiety and other conditions, and that the misalignment of her teeth affects her mentally and physically. The mother stated that the appellant could not wait another six months to have her provider resubmit the request with new records.

The record was held open for 60 days to allow the appellant's mother to submit updated information (with the hope that all the necessary teeth would have erupted by that time). On December 12, 2023, the appellant's mother submitted a cover letter and new X-rays. After reviewing the new documents, the MassHealth representative agreed that the teeth had erupted sufficiently to allow for consideration of orthodontic treatment. He further determined that the appellant qualifies for coverage based on more than 10 mm of maxillary crowding.¹

Findings of Fact

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

1. On August 30, 2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the

¹ The MassHealth orthodontist noted that the provider's Dental Claim Form reflects an error in the fee to be charged, as it is "below the usual MassHealth fee for comprehensive orthodontic treatment."

appellant, indicating that she is eligible for automatic approval because of impacted teeth as well as crowding that exceeds 10 mm.

3. On September 5, 2023, MassHealth denied the prior authorization request because it determined that her first premolars and permanent first molars had not yet erupted.
4. On September 18, 2023, the appellant filed a timely appeal.
5. After the hearing on October 18, 2023, the record was held open for sixty days for the appellant to submit updated records.
6. On December 12, 2023, the appellant submitted updated X-rays. After reviewing the new documentation, the MassHealth representative agreed that the necessary teeth have erupted and that the appellant qualifies for coverage based on more than 10 mm of maxillary crowding.

Analysis and Conclusions of Law

130 CMR 420.431(C) states, in relevant part, as follows:

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*.

Appendix D of the Dental Manual is the “MassHealth Handicapping Labio-Lingual Deviations Index” (HLD), which is described as a quantitative, objective method for measuring PA requests for comprehensive orthodontic treatment. The HLD allows for the identification of certain auto-qualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion.

MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, in two other circumstances: First, MassHealth will approve a request if there is evidence of one or more auto-qualifying conditions: 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 mm; reverse overjet greater than 3.5 mm, crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding third molars; 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 of 2 mm or more, of 4 or more teeth per arch;

and anterior open bite of 2 mm or more, of 4 or more teeth per arch.

Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion;
- A diagnosed speech or language pathology caused by the patient's malocclusion; or
- A condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. 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:

- 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);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider alleged the appellant was eligible for treatment based on the presence of two auto-qualifying conditions (impactions and crowding in excess of 10 mm).

MassHealth initially determined that the appellant was not eligible for coverage because she did not yet have all the necessary adult teeth to complete the evaluation. During the record-open period which followed the hearing, however, the MassHealth orthodontist reviewed more updated records and concluded that the necessary teeth have erupted and that the appellant does in fact qualify for treatment based on maxillary crowding.

As the appellant has an auto-qualifying condition under the HLD guidelines, she is eligible for authorization of comprehensive orthodontic treatment. This appeal is approved.²

Order for MassHealth

Approve the prior authorization request dated August 30, 2023.

Implementation of this Decision

If this decision is not implemented within 30 days after the date hereon, you should contact MassHealth. If you experience further problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings, Office of Medicaid, at the address on the first page of this decision.

Rebecca Brochstein
Hearing Officer
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708

² The possible error in the provider's PA submission (related to the payment rate for orthodontic services) does not impact the appellant's clinical eligibility for coverage. See note 1, supra.