

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308633
Decision Date:	11/30/2023	Hearing Date:	10/25/2023
Hearing Officer:	Emily Sabo		

Appearances for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan, DentaQuest



*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:	Orthodontic Services
Decision Date:	11/30/2023	Hearing Date:	10/25/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South (Virtual)	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 31, 2023, MassHealth denied the Appellant's request for prior authorization for orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). The Appellant filed this appeal in a timely manner on September 20, 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 coverage of orthodontic treatment.

Issue

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

Summary of Evidence

The Appellant and his mother appeared virtually for the hearing. The Appellant is a minor and he was represented by his mother at the hearing, where she verified his identity. On August 29, 2023, the Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment on behalf of the Appellant. As part of this request, the Appellant's orthodontist completed an Orthodontics Prior Authorization form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) form, and submitted these, along with photographs and x-rays of the Appellant's mouth. Exhibit 5. The Appellant's orthodontist indicated that he would not be submitting a medical necessity narrative. *Id.* at 6.

At the hearing, MassHealth was represented by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes dental prior authorization determinations. The MassHealth representative testified that MassHealth only covers the cost of orthodontic treatment if there is a severe problem (a handicapping malocclusion). To determine whether there is a handicapping malocclusion, an HLD form is completed by both the orthodontic provider and MassHealth. The HLD form lists 13 auto qualifiers and 9 characteristics with corresponding numerical values. The MassHealth representative testified that for MassHealth to authorize payment for orthodontic treatment, MassHealth would need to find that an individual has an HLD score of at least 22 points or an auto qualifying condition.

The Appellant's orthodontist indicated that the Appellant had no auto qualifying conditions and a total HLD score of 22. *Id.* at 5. DentaQuest calculated that the Appellant had an HLD score of 18 and no auto qualifying conditions. *Id.* at 11. At the hearing, the MassHealth representative evaluated the Appellant's records and testified that he calculated an HLD score of 20 and that the Appellant did not have an auto qualifying condition. The MassHealth representative testified that the Appellant's orthodontist erred in counting points for both ectopic eruption and anterior crowding.

The HLD form states:

Ectopic Eruption (number of teeth, excluding third molars)—Refers to an unusual pattern of eruption, such as high labial cuspids. Do not score teeth in this category if they are scored under maxillary or mandibular crowding.	# of teeth X 3
Anterior Crowding—if crowding exceeds 3.5mm in an arch, score each arch.	Maxilla: 5 points Mandible: 5 points Both: 10 points

The Appellant's orthodontist scored 1 tooth for a total of 3 points for ectopic eruption, and 10 points for anterior crowding. *Id.* at 5. Because he only found a total of 20 points, the MassHealth representative testified that he would deny the prior authorization request for orthodontic

treatment. The MassHealth representative stated that MassHealth will pay for a pre-orthodontic treatment examination for members younger than 21 years old, once every six months, to assess if the member's teeth have changed, such that orthodontic treatment is medically necessary.

Findings of Fact

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

1. The Appellant's orthodontic provider submitted a request for orthodontic treatment on behalf of the Appellant (Testimony; Exhibit 5).
2. The Appellant's orthodontic provider completed an Orthodontic Prior Authorization form and an HLD form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth (Exhibit 5).
3. The Appellant's orthodontic provider calculated an HLD score of 22 points and that the Appellant had one ectopic eruption for 3 points and maxilla and mandible anterior crowding for 10 points. The Appellant's orthodontic provider determined that the Appellant had no auto qualifying conditions. (Exhibit 5 at 5).
4. DentaQuest calculated an HLD score of 18 points and no auto qualifying conditions (Exhibit 5 at 11).
5. After reviewing the record, the MassHealth representative calculated an HLD score of 20 points. The MassHealth representative testified that the Appellant's orthodontist erred in counting points for both ectopic eruption and anterior crowding (Testimony).
6. An HLD score of 22 is the minimum score indicative of a handicapping malocclusion (Testimony).
7. The Appellant's orthodontic provider did not submit any documentation indicating that treatment is medically necessary (Exhibit 5 at 6).
8. Regarding ectopic eruption, the HLD form instructions state "Do not score teeth in this category if they are scored under maxillary or mandibular crowding" (Exhibit 5 at 5, 11).

Analysis and Conclusions of Law

As a rule, MassHealth 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 420.410; 130 CMR 450.204. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq, covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 130 CMR 420.456.

The MassHealth regulations at 130 CMR 420.431 provide service descriptions and limitations for orthodontic services. As relevant to comprehensive orthodontic requests, the regulation provides:

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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

(B) Definitions.

(1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(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 for a member 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. Comprehensive orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one 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(A); (B); (C)(3).

Appendix D of the Dental Manual contains the authorization form for comprehensive orthodontic treatment.¹ As indicated by the paper record, 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
2. the member meets or exceeds the threshold score (currently 22 points) listed by

¹ Appendix D of the Dental Manual is available at <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.

² Found on page D-5 of Appendix D of the Dental Manual.

MassHealth on the HLD index;³ 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.⁴ Usually this involves a severe medical condition that can include atypical or underlying health concerns, which may be either dental or non-dental.

Here, the Appellant's orthodontist did not submit a medical necessity narrative letter and documentation to justify the prior authorization request. None of the reviewing orthodontists found that the Appellant had an auto qualifying condition.

MassHealth currently requires a score of 22 or higher on the HLD Index to find a handicapping malocclusion. DentaQuest's review found that the Appellant had a score of 18, and the MassHealth representative determined that the Appellant had an HLD score of 20. While the Appellant's own orthodontist calculated that the Appellant had an HLD score of 22, he scored 3 points for an ectopic eruption and the maximum 10 points for anterior crowding. The MassHealth representative testified that the same teeth should not be counted for both ectopic eruption and anterior crowding points. This comports with the HLD instructions. Exhibit 5 at 5, 11. Subtracting the 3 points from the 22 found by the Appellant's orthodontist, results in an HLD score of 19. Accordingly, the Appellant has not demonstrated that he has a handicapping malocclusion. Therefore, MassHealth was correct in denying the request, pursuant to 130 CMR 420.431. This appeal is denied.⁵

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.

³ Found on page D-6 of Appendix D of the Dental Manual.

⁴ Found on page D-3 of Appendix D of the Dental Manual.

⁵ This denial does not preclude the Appellant or the Appellant's orthodontist from submitting a new prior authorization request to MassHealth every six months upon re-examination, until the Appellant reaches the age of 21.

Emily T. Sabo, Esq.
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA