

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2308643
Decision Date:	12/08/2023	Hearing Date:	10/25/2023
Hearing Officer:	Emily T. Sabo	Record Open to:	11/1/2023

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:	12/08/2023	Hearing Date:	10/25/2023
MassHealth's Rep.:	Dr. Harold Kaplan	Appellant's Rep.:	Mother
Hearing Location:	Quincy Harbor South 2	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 7, 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 19, 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 is a minor and she was represented by her mother at the hearing, where she verified the Appellant's identity. On August 31, 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 she would not be submitting a medical necessity narrative. *Id.* at 9.

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 one auto qualifying condition—an anterior open bite of 2 mm or more, of 4 or more teeth per arch. *Id.* at 10. The Appellant's orthodontist calculated an HLD score of 17. *Id.* DentaQuest calculated that the Appellant had an HLD score of 13 and no auto qualifying conditions. *Id.* at 15. At the hearing, the MassHealth representative examined the Appellant's teeth and noted that the Appellant had braces on her upper teeth. The MassHealth representative testified that based on his evaluation of the Appellant's records, he calculated an HLD score of 16. The MassHealth representative testified that the Appellant did not have an auto qualifying condition because the Appellant did not have an open bite involving 4 or more teeth. The MassHealth representative testified that he would also uphold the denial for treatment because once treatment without prior authorization is started, unless medically necessary, MassHealth will not pay for it.

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 indicated that the Appellant had an auto qualifying condition of an anterior open bite of 2 mm or more, of 4 or more teeth per arch and an HLD score of 17 (Exhibit 5 at 10).
4. DentaQuest calculated an HLD score of 13 points and no auto qualifying conditions (Exhibit 5 at 15).
5. Based on his evaluation of the Appellant's records, the MassHealth representative calculated an HLD score of 16. The MassHealth representative testified that the Appellant did not have an auto qualifying condition because the Appellant's open bite does not involve 4 or more teeth (Testimony).
6. At the hearing, based on his examination of the Appellant's mouth and that the Appellant has already had braces installed on her upper teeth, the MassHealth representative testified that once treatment has started, MassHealth will not consider paying for the treatment if the treatment is not medically necessary (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 7).

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. The MassHealth regulations at 130 CMR 420.410(A)(3) state:

The provider must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency. The MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the MassHealth agency

- (a) the treatment was medically necessary;
- (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and
- (c) it would not be clinically appropriate to delay the provision of the service.

130 CMR 4201.410(A)(3).

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 request and receive prior authorization from MassHealth prior to starting treatment and installing braces on the Appellant's upper teeth. 130 CMR 420.410(A)(3); 130 CMR 420.431(A); 130 CMR 450.303. The Appellant's orthodontist also did not submit a medical necessity narrative letter. MassHealth currently requires a score of 22 or higher on the HLD Index to find a handicapping malocclusion. None of the three reviewers, including the Appellant's own orthodontist, found that the Appellant had a score of 22 or more HLD points that is needed for approval.

The MassHealth representative reviewed the Appellant's records and examined the Appellant's teeth. He found that she did not have an auto qualifying condition because the Appellant's bite did not involve 4 or more teeth. The MassHealth representative also testified that because the Appellant had braces installed before receiving prior authorization, MassHealth would not pay for the service. The Appellant has not demonstrated that she has a handicapping malocclusion and therefore, MassHealth was correct in denying the request, pursuant to 130 CMR 420.431. This 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.

Emily T. Sabo, Esq.

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.

Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA