

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Approved	Appeal Number:	2310183
Decision Date:	1/3/2024	Hearing Date:	12/04/2023
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:

 Father
 Mother
Pro se

Appearance for MassHealth:

Dr. Katherine Moynihan



*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:	Approved	Issue:	Prior Authorization – Orthodontics
Decision Date:	1/3/2024	Hearing Date:	12/04/2023
MassHealth's Rep.:	Dr. Moynihan	Appellant's Rep.:	Father; Mother; Pro se
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 October 10, 2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on October 23, 2023 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior authorization is a valid basis for appeal (see 130 CMR 610.032).

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, in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member who appeared at hearing with his mother and father. MassHealth was represented at hearing by Dr. Katherine Moynihan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays, on October 5, 2023. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated she found an impinging overbite with evidence of occlusal contact into the opposing soft tissue; overjet (greater than 9 mm.); and crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars), all conditions that warrant automatic approval of comprehensive orthodontic treatment. The appellant's provider also completed an HLD form indicating she found a total score of 38, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	9	1	9
Overbite in mm.	6	1	6
Mandibular Protrusion in mm	1	5	5
Anterior Open Bite in mm.	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding ¹	Maxilla: x Mandible: x	Flat score of 5 for each ²	10
Labio-Lingual Spread, in mm (anterior spacing)	8	1	8
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			38

¹ The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption or the anterior crowding, but not to count both scores.

² The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined there were no autoqualifying conditions present. DentaQuest found that the appellant had an HLD score of 10. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	6	1	6
Overbite in mm.	2	1	2
Mandibular Protrusion in mm.	0	5	0
Open Bite in mm.	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			10

Because it found an HLD score below the threshold of 22 and no autoqualifying condition, MassHealth denied the appellant's prior authorization request on October 10, 2023.

At hearing, Dr. Moynihan completed an HLD form based on an in-person examination of the appellant and a review of the x-rays and photographs. She determined that the appellant's overall HLD score was 11, and her HLD form is as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm.	7	1	7
Overbite in mm.	2	1	2
Mandibular Protrusion in mm.	0	5	0
Open Bite in mm.	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0

Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			11

She also did not see any evidence of any autoqualifying conditions. She testified that the appellant does not have an impinging overbite because there is zero evidence of soft tissue damage. The appellant's overjet is, at most, 7 mm., which does not meet the threshold of the autoqualifying condition of 9 mm. She could not explain how the appellant's orthodontist could suggest crowding of more than 10 mm. or score anterior crowding of more than 3.5 mm. in both the upper and lower. The appellant has zero crowding in the upper teeth and, at most, 1.5 mm. of crowding in the lower teeth. Therefore, neither the autoqualifying condition of crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars), nor anterior crowding exceeding 3.5 mm. in the HLD form is applicable. To the contrary, there is actually spacing, not crowding. There is no evidence of a mandibular protrusion, for which the appellant's provider gave him 5 points in the HLD form. As to the labio-lingual spread, she suggested that the appellant's orthodontist did not measure properly because it is nowhere near 8 mm., but closer to the 2 mm. that both she and DentaQuest measured. She felt that the appellant's provider's scoring did not meet the requirements of the HLD form.

The appellant's father testified that he had his first appeal about six months ago. It was over the phone, and he did not feel that measuring using a ruler on an X-ray was an accurate way to measure. Dr. Moynihan explained that the ruler in the radiograph is scaled and the measurement is considered accurate, but acknowledged that it is different examining someone in person than through photographs. The appellant's father stated that his child is teased at school because of his teeth and developed a negative self-image. It is impacting his grades and social skills and causing extreme shyness and other psychological issues. His teeth are also causing articulation issues, including a lisp. He won't smile any more. It is very uncomfortable and difficult for him to fully close his mouth which causes drooling. The drooling happens at school which leads to more teasing and mocking. The articulation issues are affecting his participation in school. His father also stated that he experiences pain in his gums.

The appellant provided a letter from his school counselor, who has a Master's degree in social work (MSW). The letter, dated [REDACTED] 2023 and printed on her company's letterhead, states the following in pertinent part:

[The appellant] has been a student of mine for a couple of months and has shown vulnerability about his physical appearance. I've been working with [the appellant] to build self-confidence as he raised concerns about his teeth. [The appellant] presents a lisp and has expressed he speaks a small amount because his teeth make him uncomfortable.

Throughout the time here, [the appellant] has shown his dedication to school and the importance of academics. While in communication with his parents, we've both seen a decrease in his academic performance. [The appellant's] lack of confidence has affected his work in the classroom alongside his social life and self-esteem. [The appellant] has previously communicated to me that he only has a couple of friends because he does not feel confident to make friends. In previous years, other peers have made fun of how he talks which has lowered his self-esteem. Throughout this challenging time for [the appellant], I will continue working with him weekly, to build self-confidence and self-esteem.

On behalf of this letter, it is my best wishes that [the appellant] receives the best and affordable medical care for his dental concerns... I hope you consider the concerns that have caused a barrier to [the appellant's] academic, mental, and social success.

Dr. Moynihan stated that the physical pain the appellant experiences in his gum is not related to any orthodontic issues; however, she noted the appellant's significant lisp in addition to a concerning lip incompetence. She explained that the lip incompetence is the appellant's inability to fully close his mouth due to his overjet, which is accounted for in the HLD scoring. A lip incompetence can lead to disordered breathing, poor sleep, and ADD-like symptoms in school. She agreed with the school counselor that braces would help the appellant's lisp and speech issues, although he may still need some speech therapy.

Findings of Fact

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

1. On October 5, 2023, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The appellant's provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 38 (Exhibit 4).
3. The provider also indicated she found an impinging overbite with evidence of occlusal contact into the opposing soft tissue; overjet (greater than 9 mm.); and crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars), all conditions that warrant automatic approval of comprehensive orthodontic treatment (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant did not have an impinging overbite with evidence of occlusal contact into the opposing soft tissue; overjet (greater than 9 mm.); and

crowding of 10mm or more, in either the maxillary or mandibular arch (excluding third molars), or any other autoqualifying condition and calculated an HLD score of 10 (Exhibit 4).

5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Testimony).
6. On October 10, 2023, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
7. On October 23, 2023, the appellant filed a timely appeal of the denial (Exhibit 2).
8. At hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 11. She also did not see any evidence of an impinging overbite with evidence of occlusal contact into the opposing soft tissue; overjet (greater than 9 mm.); and crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars), nor any other autoqualifying condition (Testimony).
9. The appellant does not have any soft tissue damage indicative of an impinging overbite (Testimony).
10. The appellant does not have any crowding in his upper teeth and, at most, 1.5 mm. of crowding in his lower teeth (Testimony).
11. The appellant does not have a mandibular protrusion and the labio-lingual spread is 2 mm. (not close to 8 mm., as suggested by the appellant's orthodontist) (Testimony).
12. The appellant's HLD score is below 22.
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; 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 3rd molars); spacing of 10 mm. or more in either the maxillary or mandibular arch (excluding 3rd 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 2 mm. or more of 4 or more teeth per arch; anterior open bite 2 mm. or more of 4 or more teeth per arch).

14. The appellant submitted a medical necessity narrative from his school counselor, an MSW. The narrative stated that, due to his dental irregularities, the appellant experiences issues with self-confidence and self-esteem and has a lisp. This has impacted his interpersonal relationships and academic performance. Orthodontic treatment would alleviate these issues, along with the appellant's continued work with the counselor. (Exhibit 6).
15. The appellant has a lisp and lip incompetence (Testimony).

Analysis and Conclusions of Law

130 CMR 420.431(C)(3) states, in relevant part, as follows:

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**.

(Emphasis added).

Appendix D of the Dental Manual is the "Handicapping Labio-Lingual Deviations Form" (HLD), which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. 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, if there is evidence of one of the following automatic qualifying conditions: cleft palate; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impaction where eruption is impeded but extraction is not indicated (excluding third molars); severe traumatic deviation; 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 3rd molars); spacing of 10 mm. or more in either the maxillary or mandibular arch (excluding 3rd 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 2 mm. or more of 4 or more teeth per arch; or anterior open bite 2 mm. or more of 4 or more teeth per arch.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient's malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or
- v. 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 speech or language pathology...** 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 the 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.

(Appendix D)

The appellant's provider indicated she found the autoqualifiers of impinging overbite with

evidence of occlusal contact into the opposing soft tissue; overjet (greater than 9 mm.); and crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars). She also calculated an HLD score of 38. After reviewing the provider's submission, MassHealth found an HLD score of 10. Upon review of the prior authorization documents and an in-person evaluation at hearing, Dr. Moynihan found an HLD score of 11. Both Dr. Moynihan and DentaQuest determined that the appellant did not have any autoqualifying conditions present in the mouth.

As Dr. Moynihan explained, the appellant's provider did not accurately measure certain conditions in the mouth and did not properly adhere to the scoring requirements of the HLD form. The appellant does not have an impinging overbite because there is zero evidence of soft tissue damage. The appellant's overjet is, at most, 7 mm., which does not meet the threshold of the autoqualifying condition of 9 mm. The appellant has zero crowding in the upper teeth and, at most, 1.5 mm. of crowding in the lower teeth. Therefore, neither the autoqualifying condition of crowding of 10 mm. or more, in either the maxillary or mandibular arch (excluding third molars), nor anterior crowding exceeding 3.5 mm. in the HLD form is applicable. To the contrary, Dr. Moynihan noted there is actually spacing, not crowding. There is no evidence of a mandibular protrusion, for which the appellant's provider gave him 5 points in the HLD form. As to the labio-lingual spread, Dr. Moynihan indicated that the appellant's orthodontist did not measure it properly because it is nowhere near 8 mm., but closer to the 2 mm. that both she and DentaQuest measured. Dr. Moynihan's measurements and testimony are credible and her determination of the overall HLD score and the lack of autoqualifiers is consistent with the evidence.

Thus, the appellant's HLD score falls below the necessary 22 points and he also does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. At hearing, however, the appellant submitted a medical necessity narrative from his school counselor, a MSW.

Upon review of the medical necessity narrative, the appeal is approved. Dr. Moynihan agreed that orthodontic treatment would correct or ameliorate the appellant's lisp. The appellant's school counselor indicated that orthodontic treatment would ameliorate the lisp, self-esteem, and emotional issues that she continues to work on with him. The appellant's school counselor has followed the instructions in Appendix D for the medical necessity narrative, including providing her opinion on the patient's conditions, and has shown that orthodontic treatment is medically necessary to treat those conditions.

For these reasons, the appeal is approved.

Order for MassHealth

Approve the appellant for the orthodontic services requested in the prior authorization received

on October 5, 2023.

Implementation of this Decision

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

Alexandra Shube
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA