

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2310320
Decision Date:	12/1/2023	Hearing Date:	11/27/2023
Hearing Officer:	Paul C. Moore		

Appellant Representative:



MassHealth Representative:

Harold Kaplan, D.M.D., DentaQuest
orthodontic consultant



*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 Orthodontic Treatment
Decision Date:	12/1/2023	Hearing Date:	11/27/2023
MassHealth Rep.:	Dr. Kaplan	Appellant Rep.:	Father
Hearing Location:	Board of Hearings, Quincy		

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 5, 2023, MassHealth denied the appellant's request for prior authorization (PA) for comprehensive orthodontic treatment because MassHealth determined that the appellant has had previous comprehensive orthodontic treatment (130 CMR 420.431; Exh. 1). The appellant filed this appeal in a timely manner on October 25, 2023 (Exh. 2). A PA denial is valid grounds for appeal (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive 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 comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a [REDACTED] year-old MassHealth member who attended the hearing with her father, who is her appeal representative. The MassHealth representative, an orthodontist consultant with DentaQuest (the contracted agent of MassHealth that makes the dental prior authorization determinations), testified that the appellant's orthodontist, [REDACTED], submitted a PA request for comprehensive orthodontic treatment for the appellant on or about September 13, 2023. [REDACTED] completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form, submitting these to DentaQuest, along with photographs of the appellant's mouth and a radiograph (Exh. 3).

On the HLD Form, the orthodontist indicates whether the child has a cleft palate, deep impinging overbite, anterior impactions, severe traumatic deviations, an overjet greater than 9 millimeters, a reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters (mm.), collectively referred to as "autoqualifiers" (Testimony).

If any autoqualifiers are present, the request for orthodontic treatment is approved. If no autoqualifiers are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread, and posterior unilateral crossbite and gives each measurement a value based on the calculation worksheet on the HLD Form. An HLD score of 22 or over constitutes a severe, disfiguring and handicapping malocclusion (Testimony).

In the appellant's case, [REDACTED] indicated on the HLD Form she submitted to DentaQuest that the appellant has no autoqualifiers for treatment. [REDACTED] documented that for the appellant, she measured an overjet of 7 mm. (worth seven points on the HLD Form), four teeth with an anterior open bite (worth four points per tooth, or sixteen points total on the HLD Form), and a labio-lingual spread of 7 mm. (worth seven points on the HLD Form). The total score calculated by [REDACTED] for the appellant on the HLD Form was 35 points (*Id.*).

The MassHealth representative testified that in order for MassHealth to cover orthodontic treatment, the member must have a severe, disfiguring and handicapping malocclusion. In addition, he testified that the appellant can receive comprehensive orthodontic treatment only once per lifetime. Here, it appears from DentaQuest's records that the appellant already received comprehensive orthodontic treatment from another provider, for which MassHealth paid. Therefore, MassHealth will not pay again for such treatment (Testimony).

The appellant's father testified that the appellant had started comprehensive orthodontic treatment with a different orthodontist, [REDACTED]. He submitted into evidence a copy of a disclosure from [REDACTED] office, dated April 12, 2022, in which [REDACTED] indicates that "the state of Massachusetts has approved payment of our contracted fee of \$4,116.00 (usual and customary is \$6,260.00, a discount of \$2,144.00) as long as [the appellant] is eligible for Medicaid benefits" (Exh. 5). The appellant's father testified that the appellant was banded by [REDACTED], but he did not feel that the appellant was being treated safely by [REDACTED] office. The

appellant's father also submitted into evidence a copy of a referral for tooth extractions for the appellant from [REDACTED] office, in preparation for comprehensive orthodontic treatment (Exh. 6). The appellant confirmed that these extractions occurred (Testimony).

The appellant stated that she later removed the braces herself. Some brackets are still present on her posterior teeth.

The MassHealth representative testified that the appellant's father would need to contact MassHealth customer service and explain that he did not believe that the appellant was being treated appropriately by [REDACTED], and that he wants to finish orthodontic treatment with another provider. The MassHealth representative stated that if and when MassHealth retracts the payment from [REDACTED] can submit a PA request form to MassHealth for Continuation of Care on behalf of the appellant (Testimony).

Findings of Fact

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

1. The appellant is a [REDACTED]-old MassHealth member (Exh. 3).
2. The appellant's orthodontist, [REDACTED], submitted a PA request for comprehensive orthodontic treatment for the appellant in September, 2023 (Exh. 3).
3. Dr. Thalanki completed an Orthodontics Prior Authorization Form and a HLD Form, and submitted these along with photographs of the appellant's mouth and radiograph to DentaQuest (Ex. 3).
4. The appellant already commenced comprehensive orthodontic treatment in 2022 with another provider, [REDACTED] (Testimony, Exhs. 5&6).
5. The appellant did not feel safe being treated by [REDACTED] (Testimony).
6. The appellant removed the braces placed by [REDACTED] herself (Testimony).
7. Dr. Murthy was already paid by MassHealth for comprehensive orthodontic treatment purportedly provided to the appellant (Testimony).
8. MassHealth will pay for comprehensive orthodontic treatment once per member per lifetime for a member younger than 21 years old (Testimony).
9. By notice dated October 5, 2023, MassHealth denied the request for comprehensive orthodontic treatment for the appellant submitted by [REDACTED] (Exh. 1).

Analysis and Conclusions of Law

130 CMR 420.431 contains the relevant MassHealth regulation addressing how a MassHealth member may receive approval on a prior authorization request for comprehensive orthodontic treatment. The regulation reads as follows:

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.

(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's 21st birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.

(2) Interceptive Orthodontics.

(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.

(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion, including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.

(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.

(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.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-day) basis for ongoing orthodontic maintenance and treatment beginning after the initial placement, and insertion of the orthodontic fixed and removable appliances. If a

member becomes inactive for any period of time, prior authorization is not required to resume orthodontic treatment visits and subsequent billing, unless the prior authorization time limit has expired. The provider must document the number and dates of orthodontic treatment visits in the member's orthodontic record.

(5) Orthodontic Case Completion. The MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

(6) Orthodontic Transfer Cases. The MassHealth agency pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. Payment for transfer cases is limited to the number of treatment visits approved. Providers must submit requests using the form specified by MassHealth.

(7) Orthodontic Terminations. The MassHealth agency requires providers to make all efforts to complete the active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number.

(8) Radiographs. Payment for Cephalometric and radiographs used in conjunction with orthodontic diagnosis is included in the payment for comprehensive orthodontic treatment (see 130 CMR 420.423(D)). The MassHealth agency pays for radiographs as a separate procedure for orthodontic diagnostic purposes only for members younger than 21 years old if requested by the MassHealth agency.

(9) Oral/Facial Photographic Images. The MassHealth agency pays for digital or photographic prints, not slides, only to support prior-authorization requests for comprehensive orthodontic treatment. Payment for digital or photographic prints is included in the payment for comprehensive orthodontic treatment or orthognathic treatment. The MassHealth agency does not pay for digital or photographic prints as a separate procedure (see 130 CMR 420.413). Payment for orthodontic treatment includes payment for services provided as part of the pre-orthodontic treatment examination, unless the MassHealth agency denies the prior authorization request for interceptive or comprehensive orthodontic treatment. The MassHealth agency pays for the pre-orthodontic treatment examination if prior authorization is denied for interceptive or comprehensive orthodontic treatment.

MassHealth uses the HLD Form as a tool to determine if a member has a severe, disfiguring and handicapping malocclusion. If a member does not have an autoqualifier, then measurements are taken of the member's overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower arch, labio-lingual spread, and posterior unilateral crossbite, and each measurement is given a value based on the calculation worksheet on the HLD Form. A HLD score of 22 is the minimum score which indicates a severe, disfiguring and handicapping malocclusion.

In the instant matter, DentaQuest's records reflect that [REDACTED], another orthodontist, was already paid for comprehensive orthodontic treatment for the appellant. However, the appellant chose not to finish treatment with [REDACTED].

Dr. Thalanki, another orthodontist, submitted a new PA request for comprehensive orthodontic treatment in September, 2023. MassHealth denied the PA request because MassHealth 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, per 130 CMR 420.431(C)(3), above.

Because another provider was already paid for comprehensive orthodontic treatment for the appellant, MassHealth will not pay the new provider for the same service.

MassHealth's decision to deny this PA request was correct. This appeal is therefore 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.

Paul C. Moore
Hearing Officer
Board of Hearings

cc: DentaQuest representative