

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



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|-------------------------|----------------|-----------------------|------------|
| Appeal Decision: | Denied | Appeal Number: | 2313215 |
| Decision Date: | 3/4/2024 | Hearing Date: | 01/22/2024 |
| Hearing Officer: | Marc Tonaszuck | | |

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter, 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: | Orthodontics |
| Decision Date: | 3/4/2024 | Hearing Date: | 01/22/2024 |
| MassHealth's Rep.: | Dr. Carl Perlmutter, DentaQuest | Appellant's Rep.: | Mother |
| Hearing Location: | Springfield MassHealth Enrollment Center | | |

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 11/12/2023, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibits 1 and 4). On 12/15/2023, a timely appeal was filed on behalf of the appellant by his mother (see 130 CMR 610.015(B) and Exhibit 2)¹. Denial of a request for prior approval 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.

¹ The appellant is a minor child who was represented in these proceedings by his mother.

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

The appellant is a minor MassHealth member. He was represented in these proceedings by his mother who appeared with him at the fair hearing in person. MassHealth was represented at hearing by Dr. Carl Perlmutter, also in person, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider, Dr. [REDACTED] submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays on 11/10/2023. 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 that the appellant has an HLD score of 22, as follows:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|---|---------------------------|--------------------------|----------------|
| Overjet in mm | 7 | 1 | 7 |
| Overbite in mm | 3 | 1 | 3 |
| 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: X Mandible: X | Flat score of 5 for each | 10 |
| 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 | | | 22 |

The appellant's orthodontist did not identify any automatic qualifying conditions ("autoqualifiers") and he did not include a medical necessity narrative with the PA request.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its

orthodontists determined that the appellant had an HLD score of 20. The DentaQuest HLD Form reflects the following scores:

| Conditions Observed | Raw Score | Multiplier | Weighted Score |
|---|---------------------------|--------------------------|----------------|
| Overjet in mm | 5 | 1 | 5 |
| 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: X Mandible: X | Flat score of 5 for each | 10 |
| Labio-Lingual Spread, in mm (anterior spacing) | 3 | 1 | 3 |
| 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 | | | 20 |

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 11/13/2023.

At hearing, Dr. Perlmutter requested and received permission to examine and measure the appellant's malocclusion for the purposes of applying the HLD Index and calculating a score. After his review of the PA request, the photographs, X-rays, and results of his physical examination, Dr. Perlmutter testified that the appellant has an HLD score of 21, as follows:

| 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: X Mandible: X | Flat score of 5 for each | 10 |
| Labio-Lingual Spread, in mm (anterior spacing) | 3 | 1 | 3 |

| | | | |
|---|---|-----------------|-----------|
| 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 | | | 21 |

The MassHealth orthodontist also testified that there are no other automatic qualifying conditions. He concluded that his measurements do not support an HLD score of 22. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's mother testified that she was frustrated with the appeal process because the appellant's HLD score "is close." She explained she was "having a bad day."

Findings of Fact

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

1. On 11/10/2023, the appellant's orthodontic provider, Dr. [REDACTED] submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant, calculated an HLD score of 22 points (Exhibit 4).
3. The appellant's orthodontic provider did not indicate on the HLD Index that the appellant has an autoqualifying condition, nor did he include a medical necessity narrative with the PA request (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 20, with no automatic qualifying condition (Exhibit 4).
5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more, when there is an autoqualifier, or if there is demonstrated medical necessity condition that is not anticipated by the HLD Index (Testimony).
6. On 11/13/2023, MassHealth notified the appellant that the PA request had been denied (Exhibits 1 and 4).
7. On 12/15/2023, the appellant filed a timely appeal of the denial (Exhibit 2).

8. On 01/22/2024, a fair hearing took place before the Board of Hearings.
9. At the fair hearing, a MassHealth orthodontic consultant requested and received permission to examine and measure the appellant's malocclusion. The MassHealth orthodontist reviewed the provider's paperwork, photographs, X-rays, and the results of his own physical examination and found an HLD score of 21 (Testimony).
10. The appellant's HLD score is below 22.
11. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., cleft palate, impinging overbite, impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding greater than 10 mm on either arch, or spacing greater than 10 mm on either arch, anterior or posterior crossbite of 3 or more teeth, 2 or more congenital missing teeth, or an anterior open bite greater than 2 mm. involving 4 or more teeth).

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 under the age of 21 and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

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 severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant's provider documented that the appellant has an HLD score of 22. He did not assert that the appellant has an autoqualifying condition, nor did he submit a medical necessity narrative with the PA request. Upon receipt of the PA request and after reviewing the provider's submission,

MassHealth found an HLD score of 20 and no automatic qualifying condition. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 21 and no automatic qualifying condition.

The appellant's mother argues that the appellant's score is "close," and that his request for comprehensive orthodontics is medically necessary. The appellant's treating orthodontist calculated an overall HLD Index score of 22, which included scores for overjet, overbite, anterior crowding on both arches, and a labio-lingual spread. The MassHealth orthodontic consultant who testified under oath at the hearing, calculated a HLD Index score of 21, finding scores for the same conditions; however, the scores did not reach the threshold score of 22 points.

The MassHealth orthodontist testified that the appellant's orthodontist incorrectly measured the appellant's overjet and overbite. The scores differ by only 1 mm for each condition; but, MassHealth's measurements did not reach 22 points. The MassHealth orthodontist demonstrated his measurements and evaluation to the hearing officer and to the appellant's mother, how he made his measurements using the physical examination of the appellant's malocclusion, photographs, X-rays and other documentation in the appellant's clinical record to support his determination that the total score is less than 22 points.

MassHealth's measurements, evaluation and conclusion is supported by the relevant facts in the hearing record, the regulations and the instructions on the HLD Index Score Sheet. Using the accurate measurements, the MassHealth representative's score of 21 does not signify a severe and handicapping malocclusion. Additionally, there is no evidence of an automatic qualifying condition. The MassHealth orthodontist could not find the appellant to have an HLD Index score at the level indicating a severe and handicapping malocclusion. There were no other medical circumstances submitted at the hearing which would affect this decision.

Appellant's mother testified that her request for comprehensive orthodontics is for a medical reason, not a cosmetic reason; however, other than the score submitted by the appellant's orthodontist, no other evidence was submitted. The appellant's orthodontist was not present at the fair hearing, nor he was not available to be questioned by the hearing officer or cross-examined by the MassHealth orthodontist. While the appellant's dental condition may benefit from orthodontic treatment, the requirements of 130 CMR 420.431(C) are clear and unambiguous. MassHealth will cover orthodontic treatment "only" for members who have a "severe and handicapping malocclusion." Based on the information in evidence, the appellant's HLD Index score is below the threshold of 22 at this time, there is no automatic qualifying condition, and there is insufficient evidence to support a finding of a severe and handicapping malocclusion.

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.

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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA