

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402507
Decision Date:	4/22/2024	Hearing Date:	03/18/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:
Pro se



Appearance for MassHealth:
Katherine Moynihan, DMD



*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:	4/22/2024	Hearing Date:	03/18/2024
MassHealth's Rep.:	Katherine Moynihan, DMD	Appellant's Rep.:	Mother
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 2/8/24, MassHealth informed Appellant, a minor, that it denied her prior authorization (PA) request for comprehensive orthodontic treatment. See Exhibits 1 and 4. Appellant's mother filed a timely appeal on her behalf on 2/20/24. See 130 CMR 610.015(B); Exhibit 2. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

Action Taken by MassHealth

MassHealth denied Appellant's PA request for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth correctly denied Appellant's request for comprehensive orthodontic treatment.

Summary of Evidence

At hearing, MassHealth was represented by [REDACTED] a board-certified and Massachusetts-licensed orthodontist and dental consultant for DentaQuest (also referred to herein as the “MassHealth representative”). DentaQuest is the third-party contractor that administers and manages the MassHealth dental program. According to testimony and documentary evidence presented by the MassHealth representative, Appellant is a minor under the age of [REDACTED], and a MassHealth recipient. On 1/25/24 Appellant’s provider sent MassHealth a prior authorization (PA) request seeking coverage for procedure code D8080 - *comprehensive orthodontic treatment of the adolescent dentition* and procedure code D8670 - *periodic orthodontic treatment visits*. See Exh. 4, p. 6. On 2/8/24, MassHealth denied the request based on its finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id.

[REDACTED] testified that MassHealth will only provide coverage for comprehensive orthodontic treatment for members who have a “severe, handicapping, or deforming” malocclusion. Such a condition exists when the member has either (1) dental discrepancies that result in a score of 22 or more points on the HLD Form, as detailed in the MassHealth *Dental Manual*, or (2) evidence of a group of exceptional or handicapping “auto-qualifying” dental conditions. In addition, MassHealth will consider authorization when there is a clinical narrative and supporting documentation from a clinician indicating why orthodontic treatment is medically necessary to treat the malocclusion.

In this case, Appellant’s provider submitted an HLD form that calculated a total numerical HLD score of 24 points, consisting of 3 points for overjet, 4 points for overbite, 9 points for ectopic eruption (3 teeth x 3 points each = 9 points), 4 points for labio-lingual spread, and 4 points for posterior unilateral crossbite involving 2 or more teeth, one of which is a molar. See id. at 10. The provider did not identify the presence of an auto-qualifying condition or alternative basis for medical necessity in the PA request.

A MassHealth dental consultant from DentaQuest reviewed the PA request, which included Appellant’s relevant dental records, oral and facial photographs, a side x-ray, and panoramic x-ray. Using the documentation provided, the reviewing consultant found Appellant had an HLD score of 11 points. Id. at 7. Like the provider, the MassHealth consultant also allotted points for overjet, overbite, and labiolingual spread; however, MassHealth did not award any points for ectopic eruption or posterior crossbite. Id. Because MassHealth could not verify an HLD score of 22 points or higher, and in the absence of evidence of an auto-qualifying condition or medical necessity narrative, it denied the PA request pursuant to its February 8th notice. Id. at 2.

[REDACTED] conducted a secondary review of the PA documentation and performed an in-person oral examination of Appellant at hearing. Based on her review and examination, [REDACTED] concurred with MassHealth’s initial findings, also calculating an HLD score of 11, with no points for an ectopic eruption or posterior crossbite. [REDACTED] explained that an

“ectopic” tooth is a tooth that is not coming in at the correct location, as opposed to, a tooth that is not coming in straight. Here, Appellant’s provider identified three teeth as “ectopic,” which the HLD form instructs to score as three points each; hence the 9 points the provider awarded under this category. However, there was no evidence that the teeth at issue were erupting in an incorrect location for MassHealth to identify as “ectopic.” Regarding the different outcome in “posterior crossbite,” [REDACTED] referred to the wording on the HLD form, which states that a “posterior unilateral crossbite – must involve 2 or more teeth, one of which must be a molar.” Id. at 11. Based on her oral examination and review of the records, Appellant’s crossbite only involved one tooth. Based on the review, [REDACTED] upheld MassHealth’s decision of non-payment for braces.

At hearing, Appellant was represented by her mother. Appellant’s mother testified that through a previous PA request, MassHealth calculated an HLD score of 19 points. In addition, Appellant’s [REDACTED] molars still have not come in because they are being blocked by her wisdom teeth. She is scheduled to have her wisdom teeth removed, which will allow the blocked molars to grow in.

At hearing, the parties discussed that if there are any changes, Appellant’s provider can resubmit a PA request in another 6 months. The parties also discussed that if applicable, any future PA’s may include a narrative by a separate clinician, such as a mental health provider, primary care physician, or pediatrician, to describe and document any alternative basis of medical necessity for orthodontic treatment.

Findings of Fact

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

1. Appellant is a minor and MassHealth recipient.
2. On 1/25/24, Appellant’s orthodontic provider sent MassHealth a PA request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670).
3. According to the PA request, the provider requested orthodontic treatment based on findings that Appellant had a total HLD score of 24 points, which included 9 points for ectopic eruption and 4 points for posterior crossbite of two or more teeth.
4. In reviewing the PA request, a MassHealth dental consultant calculated a total HLD score of 11 points, which included no points for ectopic eruption and no points for posterior crossbite of two or more teeth.

5. On 2/8/24, MassHealth denied the request based on its finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment.
6. At hearing, the MassHealth representative – a board certified orthodontist and dental consultant - conducted an in-person oral examination of Appellant and concurred with the findings reported by the initial MassHealth consultant, thereby affirming the MassHealth denial.
7. Neither of the MassHealth dental consultants found evidence of an ectopic eruption or posterior unilateral crossbite involving two or more teeth and involving at least one molar.

Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, in relevant part, the following:

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 clinical standards for medical necessity as described in Appendix D of the Dental Manual.***

See 130 CMR 420.431(C)(3) (emphasis added).

Appendix D of the *Dental Manual* is the Authorization Form for Comprehensive Orthodontic Treatment and includes the “Handicapping Labio-Lingual Deviations” (HLD) Index, which must be completed by the requesting provider and submitted with the PA request to establish medical necessity of the proposed treatment. The HLD Index is described as a quantitative, objective method for measuring the degree of a subject’s malocclusion. See *Dental Manual*, Appendix D, p. 1. Through this methodology, members are assigned a single score, based on a series of measurements that represent the degree to which their case deviates from normal alignment and occlusion. Id. MassHealth has determined that an HLD score of 22 points or higher signifies a handicapping malocclusion. See id. at 2. MassHealth will also authorize treatment without regard for the HLD numerical score, if the member has one of the identified “auto-qualifying” conditions listed on the HLD form. Such conditions are characterized by a single deviation, which by itself is so severe, that it automatically qualifies the member for braces. See id. The HLD form explicitly states that ***MassHealth will authorize treatment only “for cases with verified auto-qualifiers or verified scores of 22 and above.”*** See id. (emphasis

added).

Alternatively, MassHealth allows providers to seek coverage of orthodontic treatment through submitting a medical necessity narrative written by a treating clinician. The narrative must sufficiently explain why comprehensive orthodontic treatment is medically necessary to correct or significantly ameliorate a health-related condition caused by the malocclusion. Examples of such conditions are further detailed in Appendix D, and include mental, emotional, and behavioral conditions; nutritional deficiencies; or a diagnosed speech or language pathology.¹ Id.

While a MassHealth member may benefit from orthodontic treatment, the regulations limit eligibility for such treatment to patients with “handicapping malocclusions” as defined within the strict parameters outlined above. See 130 CMR 420.431(C)(3). It is the appellant’s burden to prove, beyond a preponderance of the evidence, that MassHealth erred in its determination. See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (Mass. App. Ct. 2007).

In its initial review of the PA request, a MassHealth orthodontic consultant calculated an HLD score of 11. This finding was confirmed after [REDACTED], a separate MassHealth orthodontic consultant, reviewed the records and performed an in-person oral examination of Appellant at hearing. While the MassHealth consultants agreed with some of the provider’s findings and scoring, they did not agree that Appellant had an ectopic eruption or posterior crossbite of two or more teeth and allotted no HLD points under these categories. At hearing, [REDACTED] provided credible testimony detailing why the observed conditions were not included in the HLD scores. Given the consistency in both MassHealth consultants’ findings, and in consideration of the notable gap between total HLD scores (i.e. 24 vs. 11), MassHealth was unable to “verify” that Appellant had a qualifying HLD score of 22 or more, or any alternative basis to demonstrate eligibility for the requested treatment.² Appellant has not demonstrated that MassHealth erred

¹ Under Appendix D of the Dental Manual the “medical necessity narrative” must show that the treatment will 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 a 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.” Additional submission requirements are outlined in Appendix D when the justification for medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider. See MassHealth Dental Manual, Appendix D.

² Appellant’s provider did not cite any alternative basis for treatment, such as the presence of an auto qualifying condition or evidence of medical necessity. In their reviews, neither of the MassHealth consultants found evidence of an auto qualifying condition.

in denying the requested coverage for orthodontic treatment.³ See 130 CMR 420.431(C)(3).

The 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.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

³ If the Appellant's dental condition should worsen or her orthodontist is able to provide the necessary documentation to demonstrate that the treatment is medically necessary, a new prior authorization request can be filed at that time, provided six months has elapsed since the last examination and the appellant has not yet reached the age of 21.