

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402733
Decision Date:	05/02/2024	Hearing Date:	03/25/2024
Hearing Officer:	Christopher Jones		

Appearance for Appellant:

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:	Denied	Issue:	Prior Authorization; Dental; Orthodontia
Decision Date:	05/02/2024	Hearing Date:	03/25/2024
MassHealth's Rep.:	Dr. Katherine Moynihan	Appellant's Reps.:	[REDACTED]
Hearing Location:	Charlestown 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 February 8, 2024, MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment because MassHealth had already paid for such treatment on the appellant's behalf. (Exhibit 5.) The appellant filed this appeal in a timely manner on February 22, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied the appellant's request for comprehensive orthodontic treatment because MassHealth had already paid for the appellant to receive such treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431 and 420.408, in denying the appellant's prior authorization request.

Summary of Evidence

On or about February 2, 2024, an orthodontist submitted a prior authorization request on the appellant's behalf, requesting comprehensive orthodontic treatment. The provider submitted X-rays and photographs, but did not submit a Handicapping Labio-Lingual Deviations ("HLD") Form, documenting the appellant's need for orthodontic treatment. MassHealth denied this request primarily because the agency had already paid another orthodontist for providing comprehensive orthodontic treatment on the appellant's behalf, and there is a once-per-lifetime benefit limitation for comprehensive orthodontic treatment. The appellant is younger than 21 years-old, and she is covered by MassHealth Standard.

The appellant testified that she had recently completed orthodontic treatment through another provider. She was satisfied with the treatment, but then she had to have her wisdom teeth removed. After her wisdom teeth were removed, she felt as though her teeth shifted. Around this time, she had also lost her retainer. She went back to the original orthodontist and requested a new retainer, but coverage for that retainer was denied. She did not appeal that denial. She testified that she is now having pain, and that she is uncomfortable with her bite. She does not like the way her teeth are touching, and she believes that her enamel is cracking because of the alignment of her teeth. She went to a new orthodontist who suggested that she could either get a new retainer, get braces reapplied, or potentially remove two teeth in order to help re-align her bite. The appellant believes that her original orthodontist either did not properly align her bite in the first place, or was wrong to remove her braces before she had her wisdom teeth removed.

It was pointed out that the appellant's current provider had not submitted a complete prior authorization request because they had not submitted an HLD Form.¹ The appellant had a letter from her primary care physician (PCP), explaining that the appellant has an anxiety disorder. Her PCP opines that the appellant is suffering significant distress because she believes that her teeth's alignment has changed. This letter was not submitted to DentaQuest as a medical necessity narrative attached to the HLD Form. The appellant was informed that her current orthodontist needs to complete an HLD Form and attach the PCP's letter as a medical necessity narrative. MassHealth would then review the need for comprehensive orthodontic treatment to treat the appellant's anxiety, and be able to have a psychiatrist or medical physician opine as to the appropriateness of this course.

Furthermore, if the appellant wanted MassHealth to investigate the appropriateness of the original provider's treatment, she could contact the DentaQuest Dental Complaint department. The appellant was provided a copy of the Dental Complaint Form,² so that she could have DentaQuest

¹ It is possible that an HLD Form was not submitted because the appellant's bite would not qualify as handicapping, since her previous braces have corrected the bite issues she had in the past.

² Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/Member-Complaint-Form.pdf> (last visited April 18, 2024).

investigate whether the original orthodontist should be allowed to retain the MassHealth payment for her treatment. Dr. Moynihan did not opine regarding the appellant's original treatment, other than to state that the appellant would likely not qualify for comprehensive orthodontic treatment based upon an HLD score. In addition, a medical necessity narrative would be needed.

Findings of Fact

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

- 1) The appellant is under the age of 21 and she is covered by MassHealth Standard. (Exhibit 4.)
- 2) The appellant had been approved for comprehensive orthodontic treatment in the past, paid for by MassHealth, and she completed this treatment program. (Testimony by the appellant and Dr. Moynihan.)
- 3) On or about February 2, 2024, a new orthodontist submitted a prior authorization request with photos and X-rays but did not evaluate the appellant's bite on an HLD Form, nor did the provider submit a medical necessity narrative. (Exhibits 5 and 7.)

Analysis and Conclusions of Law

Pursuant to 130 CMR 420.431(C)(3), MassHealth "pays for comprehensive orthodontic treatment ... only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the Dental Manual." The regulations do not speak directly to what conditions qualify as "severe and handicapping" except to specifically cover "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(C)(3).)

In addition to the guidance set forth directly in the regulations, sub-regulatory guidance is provided in the MassHealth Dental Manual and the Office Reference Manual ("ORM"). (See 130 CMR 420.410 (requiring prior authorization for services identified in the Dental Manual and in accordance with procedures laid out in the ORM).) Of particular importance to this appeal, is that the ORM includes the requirement that providers submit "all applicable completed forms and documentation to DentaQuest for review." Included in the required forms is "Appendix B," which is the HLD Form. (See ORM, Sec. 16.2; App. B.)

Because the appellant's provider did not submit a completed HLD Form, this appeal must be DENIED.³

³ It is worth noting that there are situations in which MassHealth will approve comprehensive orthodontic treatment more than once for a member. For instance, "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." Also, federal law requires that Medicaid agencies provide "early and periodic screening, diagnostic, and treatment services" to "all persons in the State who are under the age of 21 and who have been determined to be eligible for medical assistance including services described in section 1396d(a)(4)(B) of this title" (42 USC § 1396a(a)(43).) "Medical assistance" includes "early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21" (42 USC § 1396(a)(4)(B).)

MassHealth "pays for all medically necessary dental services for EPSDT-eligible members in accordance with 130 CMR 450.140 ... , **without regard to service limitations described in 130 CMR 420.000**, and with prior authorization." (130 CMR 420.408 (emphasis added).) MassHealth's regulations limit eligibility for early and periodic screening, diagnostic, and treatment ("EPSDT") services to "MassHealth Standard and MassHealth CommonHealth members younger than 21 years old" (130 CMR 450.140(A)(1).)

Therefore, it is possible that the appellant would be eligible for a second round of orthodontic treatment if it were medically necessary to treat a handicapping malocclusion. This can be established through a "medical necessity narrative." The HLD Form includes instructions regarding what qualifies as a "medical necessity narrative":

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 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, 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);

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

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- 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 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. The medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative.

(ORM, App. B, p. 3.)

This decision takes no position as to whether the appellant should be substantively eligible for a second round of comprehensive orthodontic treatment, nor does it make any findings regarding whether the appellant's first treatment was or was not successful.

receipt of this decision.

Christopher Jones
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 1, MA