

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Appeal Decision:	Denied	Appeal Number:	2402819
Decision Date:	08/20/2024	Hearing Date:	06/10/2024
Hearing Officer:	Thomas Doyle	Record Open to:	06/24/24

Appearance for Appellant:

[REDACTED]

Appearance for MassHealth:

Dr. Katherine Moynihan

Interpreter:



*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-Orthodontic Services
Decision Date:	08/20/2024	Hearing Date:	06/10/2024
MassHealth's Rep.:	Dr. Katherine Moynihan	Appellant's Rep.:	
Hearing Location:	Quincy Harbor South 6	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 January 22, 2024, MassHealth denied appellant's prior authorization for comprehensive orthodontic treatment. (Ex.1). The appellant filed this appeal in a timely manner on February 23, 2024. (Ex. 2). Denial of assistance is valid grounds for appeal. (130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied appellant's request for prior authorization for comprehensive orthodontic treatment.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining appellant does not meet the MassHealth requirements for coverage of orthodontic treatment.

Summary of Evidence

Appellant is a [REDACTED] and a MassHealth member who was represented at hearing by her social worker. (Ex. 5; Ex. 7).¹ MassHealth was represented by Dr. Katherine Moynihan, a consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. The social worker and Dr. Moynihan appeared in person at the hearing site in Quincy. Dr. Moynihan stated appellant was denied orthodontic treatment because appellant's request exceeded the benefit allowance. She stated that comprehensive orthodontic treatment is limited to once a lifetime for a person under 21. (Testimony; 130 CMR 420.431 (C)(3)). The doctor stated there was no scoring done because DentaQuest denied the prior authorization request based on the fact the request exceeded the benefit allowance, therefore, no scoring was needed.

The social worker for appellant stated appellant had braces placed previously in Massachusetts but she did not know the date. She testified that appellant's mother removed the braces when appellant and mother were living in Florida. The mother had legal issues and appellant was moved back to Massachusetts and placed in DCF custody. (Testimony).

The record was left open for the social worker to possibly obtain a medical necessity narrative to support the need for orthodontic treatment for appellant. (Ex. 8). During the record open period, the social worker submitted an email from appellant's counselor. (Ex. 9). The email states:

I spoke with [appellant] yesterday. She did fill me in about her need for braces. She mentioned that she is prone to more tooth decay. I saw the misalignment of her front and side teeth. I could only imagine what other conditions or pain this may cause her. If she has a dentist or an orthodontist that can speak to the oral and dental ramifications to her oral hygiene and health this might also help with her case with Mass Health.

[Appellant] can also self-advocate with a letter to Mass Health explaining how her the appearance and feelings about her teeth affect her self-esteem and her own oral hygiene. I will ask my supervisor if I am able to write a letter about the emotional issues, she may be experiencing. I honestly think that a dentist and/or orthodontist can get better results from the medical and dental standpoint.

There are forms on the Patient Portal that are still outstanding. I will ask [REDACTED] to fill them in. We also need to know the name of her doctor. Our new office manager is requiring that all patients have these forms completed to continue with therapy. The forms have to be completed in case of an audit. We have to have all of our ducks in a row.

¹ Appellant is in the care and protection of the Department of Children and Families. (Ex. 5).

I am not meeting with [appellant] one time a month. She is very bus with work and seems to be working through the loss of her Mom.

I will be in touch with what my supervisor advises regarding the letter.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

After reviewing the submitted email, Dr. Moynihan found that it did not meet the requirements for medical necessity. (Ex. 10).

Findings of Fact

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

1. Appellant is a [REDACTED] female and a MassHealth member. (Ex. 7).
2. On January 23, 2024, MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment because the request exceeded the once in a lifetime benefit. (Ex. 4).
3. MassHealth previously paid for comprehensive orthodontic treatment for the appellant. (Testimony).
4. The record was left open for the social worker to obtain a medical necessity narrative to support the need for orthodontic treatment for appellant. (Ex. 8).
5. A medical necessity narrative in the form of an email from appellant's counselor was entered into evidence. (Ex. 9).
6. The medical necessity narrative does not meet the requirements for medical necessity. (Ex. 10).

Analysis and Conclusions of Law

As a rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. (130 CMR 450.204; 130 CMR 420.410). In

addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,² covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. (130 CMR 420.421 (A) through (C)).

130 CMR 420.431 contains the description and limitation for orthodontic services. As to comprehensive orthodontic requests, that regulation reads in relevant part as follows:

420.431: 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. ...*

(C) Service Limitations and Requirements.

...

*(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, **once per member per lifetime 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.** ...*

(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 4. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non- dental.

The appellant has the burden "to demonstrate the invalidity of the administrative

² 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is noted that references in the regulations to the “*Dental Manual*” include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>.

determination." Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228 (2007). On this record, the appellant has not demonstrated the invalidity of the denial of preauthorization for braces.

The undisputed evidence shows that MassHealth previously paid for comprehensive orthodontic treatment for the appellant. The regulations are clear that a person under the age of 21 only receives this benefit once in a lifetime. It is unfortunate that appellant's mother removed the braces but there is no exception to the regulation based on these facts.

The record was left open for a medical necessity narrative from appellant's counselor, which was marked as Exhibit 9. If this narrative were sufficient, it could possibly allow MassHealth to approve another set of braces for appellant. The requirements for a medical necessity narrative are contained in the Dental Manual at Appendix D:

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);
- 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

A review of the narrative provided by appellant's counselor indicates it does not meet the requirements to show a medical necessity. In the narrative, the counselor discusses her conversation with appellant about her need for braces. The counselor gives her opinion on what she observed when looking at appellant's teeth. She stated that a dental professional should speak about appellant's oral health. She also writes that it would be better for appellant to self-

advocate to MassHealth about her feelings and self-esteem. (Ex. 9). Based upon the criteria specified for a satisfactory medical necessity narrative, the narrative from appellant's counselor falls short. I find medical necessity has not been met. Plaintiff has not met her burden and 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.

Thomas Doyle
Hearing Officer
Board of Hearings

cc: [REDACTED]
[REDACTED]

MassHealth Representative: DentaQuest 1, MA