

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2402834
Decision Date:	5/6/2024	Hearing Date:	03/18/2024
Hearing Officer:	Marc Tonaszuck		

Appearances for Appellant:

 Parents
of Minor Appellant

Appearance for MassHealth:

Dr. Carl Perlmutter, DentaQuest

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:	Orthodontics
Decision Date:	5/6/2024	Hearing Date:	03/18/2024
MassHealth's Rep.:	Dr. Carl Perlmutter, DentaQuest	Appellant's Reps.:	Parents
Hearing Location:	Springfield 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 02/07/2024, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). A timely appeal was filed on the appellant's behalf¹ on 02/22/2024 (see 130 CMR 610.015(B) and Exhibit 2). 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.

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.

¹ The appellant is a minor child represented in these proceedings by her parents. Her older sister also appeared at the fair hearing.

Summary of Evidence

The appellant is a minor MassHealth member. She was not present at the fair hearing but was represented in these proceedings by her parents who appeared at the fair hearing with the appellant's older sister. The family was assisted by a [REDACTED] interpreter. MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. All parties appeared in person at the fair hearing. Exhibits 1-4 were admitted into evidence.

On 01/31/2024, the appellant's orthodontic provider, [REDACTED] submitted a prior authorization ("PA") request for comprehensive orthodontic treatment, including photographs and X-rays. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires as a condition for approval a total score of 22 or higher or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider indicated that the appellant has a condition which is an automatic qualifying condition, specifically, that she has "anterior open bite: 2mm or more; of 4 or more teeth per arch." The treating orthodontist did not find any other of the conditions that warrant automatic approval of comprehensive orthodontic treatment. He provided an HLD Index score sheet with a total score of 45 points.

DentaQuest received the PA packet from the treating orthodontist on 01/31/2024 and evaluated it on behalf of MassHealth. DentaQuest's orthodontist did not evaluate the appellant's eligibility based on her HLD Index score or automatic qualifying condition. Instead, DentaQuest denied the PA request on 02/07/2024 because the appellant "does not have 1st premolars and permanent 1st molars erupted. Comprehensive orthodontia is allowed to include transitional dentition only for craniofacial anomalies such as cleft lip or cleft palate cases. Case may qualify when member has 1st premolars and permanent 1st molars erupted."

Dr. Perlmutter, a licensed orthodontist, represented MassHealth. He testified that he received and reviewed the provider's packet, including documentation, photographs and X-rays, prior to the hearing. He testified that the appellant cannot be evaluated on the HLD index because the appellant does not have enough adult dentition to begin placement of orthodontia. He stated the appellant still has too many "baby teeth." He testified that it is required that the four first bicuspid be erupted in the mouth before orthodontia can be approved. In this case, the appellant's two bicuspid on the bottom have erupted, but not the top two. He encouraged the appellant to re-submit a request once those four teeth have all erupted.

The appellant's parents testified that they have already paid a deposit to the orthodontist to begin treatment. The father stated that "teeth are something that come in on God's time." He stated he has already signed an agreement with the orthodontist to pay \$130.00 per month for

three years for the appellant's orthodonture.

Findings of Fact

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

1. The appellant is a MassHealth member who is under 21 years of age.
2. On 01/31/2024, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
3. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, scoring 45 points and checking the box for the automatic qualifying condition of "anterior open bite: 2mm or more; of 4 or more teeth per arch" (Exhibit 4)
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant does not have "1st premolars and permanent 1st molars erupted. Comprehensive orthodontia is allowed to include transitional dentition only for craniofacial anomalies such as cleft lip or cleft palate cases. Case may qualify when member has 1st premolars and permanent 1st molars erupted" (Exhibit 4).
6. On 02/07/2024, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
7. On 02/22/2024, the appellant filed a timely appeal of the denial (Exhibit 2).
8. The appellant's parents and older sister appeared in person, as did the MassHealth orthodontist. The appellant did not appear.
9. At hearing on 03/18/2024, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, X-rays.
10. The appellant does not have all four first bicuspid erupted. The bottom two have erupted, but not the top two (Testimony).
11. There is no evidence that the appellant has craniofacial anomalies such as cleft lip or cleft palate (Testimony).

Analysis and Conclusions of Law

130 CMR 420.431(C) states, in relevant part, as follows:

(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.

(Emphasis added.)

The appellant's provider documented that the appellant has an HLD Index score of 45 points and an automatic qualifying condition, either of which situations, if verified, would warrant approval by MassHealth for the appellant's orthodontics. DentaQuest, on behalf of MassHealth, evaluated the materials submitted by the treating orthodontist and determined that the appellant does not qualify for payment of orthodonture because she does not have enough adult dentition; specifically, that not all four first bicuspid have erupted. Dr. Perlmutter testified credibly that the appellant has the two bottom first bicuspid in her mouth; but the top two have not yet erupted. He stated that as soon as they come in, the appellant should make a new request for orthodonture.

The appellant's parents testified credibly that they were advised by the treating orthodontist that the appellant "needs braces." In fact, the family has already entered into a treatment contract with the treating orthodontist. They did not dispute that all four of the appellant's first bicuspid have not erupted.

Dr. Perlmutter, a licensed orthodontist, demonstrated a familiarity with the HLD Index and the relevant MassHealth regulations. He testified credibly in support of DentaQuest's denial and its basis. His conclusions are credible and are consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative. Accordingly, MassHealth's testimony is given greater weight. As the appellant does not qualify for comprehensive orthodontic treatment under the above regulation, MassHealth correctly denied this request for comprehensive orthodontic services and this 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.

Marc Tonaszuck
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 2, MA