

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2403348
Decision Date:	6/10/2024	Hearing Date:	04/17/2024
Hearing Officer:	Emily Sabo		

Appearances for Appellant:



Appearance for MassHealth:

Dr. David Cabeceiras, 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:	Dental Services; Orthodontic Services
Decision Date:	6/10/2024	Hearing Date:	04/17/2024
MassHealth's Rep.:	Dr. David Cabeceiras	Appellant's Rep.:	Pro se & Mother
Hearing Location:	Quincy Harbor South 2	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 24, 2024, MassHealth denied the Appellant's request for prior authorization for orthodontic treatment (see 130 CMR 420.431 and Exhibit 1). The Appellant filed this appeal in a timely manner on March 1, 2024 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

Action Taken by MassHealth

MassHealth denied the Appellant's request for coverage of orthodontic treatment.

Issue

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

Summary of Evidence

The Appellant and her mother both appeared at the hearing and verified the Appellant's identity. On January 19, 2024, the Appellant's orthodontist submitted a request for prior authorization for orthodontic treatment on behalf of the Appellant. As part of this request, the Appellant's orthodontist completed an Orthodontics Prior Authorization form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) form, and submitted these, along with photographs and x-rays of the Appellant's mouth. Exhibit 5. The Appellant's orthodontist indicated that he would not be submitting a medical necessity narrative. *Id.* at 19.

At the hearing, MassHealth was represented by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes dental prior authorization determinations. The MassHealth representative testified that MassHealth only covers the cost of orthodontic treatment if there is a severe problem (a handicapping malocclusion). To determine whether there is a handicapping malocclusion, an HLD form is completed by both the orthodontic provider and MassHealth. The HLD form lists 13 auto qualifiers and 9 characteristics with corresponding numerical values. The MassHealth representative testified that for MassHealth to authorize payment for orthodontic treatment, MassHealth would need to find that an individual has an HLD score of at least 22 points or an auto qualifying condition.

The Appellant's orthodontist indicated that the Appellant had no auto qualifying conditions and calculated an HLD score of 27, based on 7 points for overjet, 7 points for overbite, 9 points for ectopic eruption¹ and 4 points for labio-lingual spread. Exhibit 5 at 18. The HLD form states for ectopic eruption: "(number of teeth, excluding third molars) – Refers to an unusual pattern of eruption, such as high labial cuspids." *Id.* Prior to the hearing, DentaQuest calculated that the Appellant had an HLD score of 14, based on 7 points for overjet, 5 points for overbite, and 2 points for labio-lingual spread, and no auto qualifying conditions. *Id.* at 7.

At the hearing, the MassHealth representative examined the Appellant's teeth and testified that he calculated an HLD score of 17 points, based on 7 points for overjet, 6 points for overbite, and 4 points for labio-lingual spread. The MassHealth representative testified that he found no auto qualifying conditions and that he would uphold the denial for treatment because it is not a handicapping malocclusion. The MassHealth representative testified that he saw no evidence of ectopic eruption and that subtracting the 9 points for that, the Appellant's orthodontist had a score of 18 points, which is less than the 22 points required to find a handicapping malocclusion.

The MassHealth representative explained that there is a significant discrepancy between the Appellant's lower and upper jaw and that the Appellant's teeth are compensating such that the bottom teeth are flaring out to meet the top teeth. The MassHealth representative stated that the Appellant could have certain teeth removed or pursue the more extreme remedy of surgery to move the jaw up. He also stated that people live with these bite discrepancies without it causing

¹ The Appellant's provider indicated that there were 3 ectopically erupted teeth for a total score of 9 points.

problems.

The Appellant's mother testified that the Appellant's provider had stated that if MassHealth approved the orthodontia request, that he would recommend surgery before commencing the orthodontia. The Appellant testified that when she closes her bite that she clenches her teeth, such that she experiences tooth and jaw pain. The MassHealth representative stated that the Appellant's provider may be able to address that issue without needing prior authorization for orthodontic services from MassHealth.

Findings of Fact

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

1. The Appellant's orthodontic provider submitted a request for orthodontic treatment on behalf of the Appellant (Testimony; Exhibit 5).
2. The Appellant's orthodontic provider completed an Orthodontic Prior Authorization form and an HLD form and submitted these to DentaQuest, along with photographs and x-rays of the Appellant's mouth (Exhibit 5).
3. The Appellant's orthodontic provider indicated that the Appellant had no auto qualifying conditions and an HLD score of 27, based on 7 points for overjet, 7 points for overbite, 9 points for ectopic eruption and 4 points for labio-lingual spread (Exhibit 5 at 18).
4. DentaQuest calculated an HLD score of 14 points, based on 7 points for overjet, 5 points for overbite, and 2 points for labio-lingual spread, and no auto qualifying conditions (Exhibit 5 at 7).
5. Based on his examination of the Appellant, the MassHealth representative calculated an HLD score of an HLD score of 17 points, based on 7 points for overjet, 6 points for overbite, and 4 points for labio-lingual spread, and no auto-qualifying conditions (Testimony).
6. An HLD score of 22 is the minimum score indicative of a handicapping malocclusion (Testimony).
7. The Appellant's orthodontic provider did not submit any documentation indicating that treatment is medically necessary (Exhibit 5 at 19).
8. Based on my review of the Appellant's dental photographs and x-rays, and crediting the testimony of the MassHealth representative, I find no evidence that the Appellant's teeth have ectopically erupted (Testimony, Exhibit 5).

Analysis and Conclusions of Law

As a rule, MassHealth 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. See 130 CMR 420.410; 130 CMR 450.204. The MassHealth regulations at 130 CMR 420.410(A)(3) state:

The provider must not start a service that requires prior authorization until the provider has requested and received written prior authorization from the MassHealth agency. The MassHealth agency may grant prior authorization after a procedure has begun if, in the judgment of the MassHealth agency

- (a) the treatment was medically necessary;
- (b) the provider discovers the need for additional services while the member is in the office and undergoing a procedure; and
- (c) it would not be clinically appropriate to delay the provision of the service.

130 CMR 420.410(A)(3).

In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq, covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 130 CMR 420.456. The MassHealth regulations at 130 CMR 420.431 provide service descriptions and limitations for orthodontic services. As relevant to comprehensive orthodontic requests, the regulation provides:

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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

(B) Definitions.

- (1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.
- (2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive

orthodontic treatment.

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(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 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.

130 CMR 420.431(A); (B); (C)(3).

Appendix D of the Dental Manual contains the authorization form for comprehensive orthodontic treatment.² As indicated by the paper record, 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;³
2. the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD index;⁴ 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.⁵ Usually this involves a severe medical condition that can include atypical or underlying health concerns, which may be either dental or non-dental.

The HLD scoring instructions for ectopic eruption in relevant part state:

Ectopic Eruption: Count each tooth, excluding third molars. Each qualifying tooth must be blocked out of the arch. Enter the number of teeth on the form and multiply by 3.

Appendix D of the Dental Manual at 6.

Here, none of the reviewing orthodontists found that the Appellant had an auto qualifying condition, and the Appellant's provider did not submit a medical necessity narrative letter and supporting documentation. Exhibit 5. As stated above, based on my review of the Appellant's dental photographs and x-rays, and crediting the testimony of the MassHealth representative, I find no evidence that the Appellant's teeth have ectopically erupted. *See also* Exhibit 5 at 23-26. Therefore, I find that the Appellant does not have an HLD score of 22 or higher, such that the

² Appendix D of the Dental Manual is available at <https://www.mass.gov/doc/appendix-d-authorization-form-for-comprehensive-orthodontic-treatment-0/download>.

³ Found on page D-5 of Appendix D of the Dental Manual.

⁴ Found on page D-6 of Appendix D of the Dental Manual.

⁵ Found on page D-3 of Appendix D of the Dental Manual.

Appellant has a handicapping malocclusion.⁶ Accordingly, MassHealth was correct in denying the request, pursuant to 130 CMR 420.431. This appeal is denied.⁷

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.

Emily Sabo
Hearing Officer
Board of Hearings

cc:

MassHealth Representative: DentaQuest 1, MA

⁶ At the hearing, the parties discussed other treatment that may be pursued prior to orthodontic services, and so the Appellant and her provider may review the MassHealth regulations, including those on oral and maxiofacial surgery at 130 CMR 420.430, 130 CMR 420.453, and 130 CMR 420.456. I also note that while no orthodontist stated that the Appellant had an auto qualifying condition, if the Appellant's provider submits another prior authorization request, he may wish to evaluate whether the Appellant has an auto qualifying condition of an overjet of greater than 9 mm. See Exhibit 5 at 24.

⁷ This denial does not preclude the Appellant or the Appellant's orthodontist from submitting a new prior authorization request to MassHealth every six months upon re-examination, until the Appellant reaches the age of 21.