

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2404274
Decision Date:	6/14/2024	Hearing Date:	04/29/2024
Hearing Officer:	Casey Groff, Esq.		

Appearance for Appellant:



Appearance for MassHealth:

Katherine Moynihan, DMD, Orthodontic
Consultant, 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:	Orthodontic Services
Decision Date:	6/14/2024	Hearing Date:	04/29/2024
MassHealth's Rep.:	Katherine Moynihan, DMD	Appellant's Rep.:	██████
Hearing Location:	Charlestown MEC, In-Person	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 3/1/2024, MassHealth informed Appellant, a minor, that it denied his prior authorization (PA) request for comprehensive orthodontic treatment. See Exhibits 1 and 3 Appellant's mother filed a timely appeal with the Board of Hearings on 3/18/24. 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 Katherine Moynihan, D.M.D. 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 under the age of 18, and is a MassHealth recipient. On 2/27/24 Appellant’s orthodontic provider sent MassHealth a prior authorization (PA) request seeking coverage for procedure code D8080 - *comprehensive orthodontic treatment of the adolescent dentition* with 8 counts of procedure code D8670 - *periodic orthodontic treatment visits*. See Exh. 3, p. 1-3. On 3/1/24, 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.

Dr. Moynihan testified that MassHealth only covers comprehensive orthodontic treatment for members who have a “severe, handicapping, or deforming” malocclusion. The Handicapping Labio-Lingual Deviations” (HLD) Index is a methodology that MassHealth uses to measure the degree to which characteristics of the member’s teeth and bite deviate from normal occlusion and alignment. MassHealth considers a malocclusion to be “physically handicapping,” only when the member’s cumulative measured deviations result in an HLD score of 22 points or higher, or if there is one characteristic severe enough to be considered an “auto-qualifying” condition. MassHealth will also consider alternative bases for coverage when the request contains a clinical narrative and documentation establishing medical necessity.

In this case, Appellant’s orthodontic provider completed an HLD form based on measurements and observations obtained during an in-person examination of Appellant. On the HLD form, the provider noted that Appellant had an “auto-qualifying” condition of “impinging overbite with evidence of occlusal contact into the opposing soft tissue.” See Exh. 3, p. 7. The provider completed an HLD score, but came to 21 points, less than the requisite 22 points to qualify for braces. The total HLD score was comprised of the following scores: 2 points for overjet, 5 points for overbite, 10 points for upper and lower anterior crowding, and 4 points for labio-lingual spread.

On receipt of the PA request, a DentaQuest orthodontic consultant, reviewed the supporting documentation therein, including Appellant’s most recent set of x-rays and oral and facial photographs. Using the images provided, the consultant came to a total HLD score of 17 and found no evidence of an impinging overbite, or other auto-qualifying condition. Id. at 4. Because MassHealth could not verify the existence of an auto-qualifying condition or HLD score of 22 points or more, it denied the PA request pursuant to its March 1st notice. Id. at 1-3.

Dr. Moynihan testified that she too reviewed the x-rays and photographs and found no evidence of a qualifying HLD score or auto-qualifying condition. Specifically, Dr. Moynihan explained that the supporting documents showed no affirmative evidence of a deep impinging

overbite such that the lower teeth were coming into contact with the soft tissue of the upper arch. She noted that Appellant's orthodontist found, pursuant to their HLD scoring, a 5mm overbite, which is "shallow" and unlikely to be impinging. The reviewing DentaQuest consultant found a somewhat deeper overbite of 6mm, but without examining Appellant in person, Dr. Moynihan testified that she was unable to overturn the denial based solely on the images provided. For example, she was unable to tell from the x-ray images whether there was contact on the opposing soft tissue due to the way Appellant's teeth overlapped. Dr. Moynihan stated she did not see any overt signs of damage to the tissue, but also noted that damage is not a necessary factor for meeting criteria. Evidence of occlusal contact with the soft tissue would be enough to overturn the denial. Absent such evidence, Dr. Moynihan testified that she had to uphold the denial.

Appellant's mother appeared at hearing and testified that her son has crowding and questioned whether delaying orthodontic treatment would worsen his condition. She testified that she had not observed evidence of damage to the soft tissue, such as pain or bleeding, but noted that her son is autistic and likely would not tell her if it was causing discomfort. Appellant's mother did however, note that her son frequently feels the need to chew on something, and questioned whether this could be a symptom of issues in his bite.

Dr. Moynihan explained that Appellant has the right to be re-examined every six months until the age of 21, and should anything change or should Appellant obtain additional information that better reveals an impinging overbite, this may be submitted to MassHealth in a subsequent PA request.

Findings of Fact

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

1. Appellant is a minor and MassHealth recipient.
2. On 2/27/24 Appellant's orthodontic provider sent MassHealth a PA request seeking coverage for procedure code D8080 - *comprehensive orthodontic treatment of the adolescent dentition* with 8 counts of procedure code D8670 - *periodic orthodontic treatment visits*.
3. According to the PA request, the provider found, on examination, that Appellant had an "auto-qualifying" condition of "impinging overbite with evidence of occlusal contact into the opposing soft tissue" and a total HLD score of 21 points.
4. In reviewing the PA request and images included therein, a MassHealth orthodontic consultant calculated a total HLD score of 17 points and could not find evidence of an

auto-qualifying condition, including a deep impinging overbite.

5. On 3/1/24, 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, a different orthodontic consultant from DentaQuest reviewed the x-rays and photographs and concurred with the initial consultant's findings that there was no evidence of an impinging overbite or other auto qualifying condition, nor was there evidence that Appellant had an HLD score of 22 points or more.

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 to MassHealth when seeking coverage for orthodontic 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 13 listed "auto-qualifying" conditions, which are listed on the HLD Index. These conditions are characterized by a single deviation, which by itself is so severe, that it automatically qualifies the member for braces. See id. (emphasis added). 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).¹

¹ 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

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). By appealing MassHealth’s 3/1/24 denial, it is Appellant’s burden to prove, beyond a preponderance of the evidence, that MassHealth erred in denying coverage. See Andrews v. Division of Medical Assistance, 68 Mass. App. Ct. 228, 231 (Mass. App. Ct. 2007).

In the present case, all of the orthodontists that assessed Appellant for purposes of HLD scoring, including Appellant’s own provider, did not get the requisite 22 points needed to qualify for MassHealth coverage of braces. Appellant’s provider did, however, cite a valid basis for coverage based on an observed “deep impinging with evidence of occlusal contact into the opposing soft tissue” – one of the enumerated “auto-qualifying” conditions. See Exh. 4, p. 7. In the PA request, the provider included x-rays and facial and oral photographs from Appellant’s most recent encounter. Two DentaQuest orthodontic consultants, including Dr. Moynihan, reviewed the documentation submitted and agreed with the provider that Appellant had an overbite. In fact, MassHealth measured the overbite at 6mm, as opposed to the provider’s measurement of 5mm. They could not, however, find evidence that Appellant’s overbite was “impinging,” such that his teeth were in contact with the opposing soft tissue. As noted above, MassHealth has narrowed the definition of a “handicapping malocclusion” solely to those cases with “*verified*” auto-qualifying conditions and/or qualifying HLD scores. Moreover, any type of MassHealth covered services must meet the threshold definition of “medically necessity,” which includes the requirement that the service is “substantiated by records including evidence of such medical necessity...” 130 CMR 450.204(B). There is insufficient evidence in the record for MassHealth to “verify” the presence of an impinging overbite. MassHealth did not err in denying Appellant’s PA request pursuant to its 3/1/24 notice. On this basis, 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.

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. Id.

Casey Groff, Esq.
Hearing Officer
Board of Hearings

cc:
MassHealth Representative: DentaQuest 1, MA