

**Office of Medicaid
BOARD OF HEARINGS**

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2407301
Decision Date:	08/01/2024	Hearing Date:	06/10/2024
Hearing Officer:	Thomas Doyle	Record Open to:	

Appearance for Appellant:



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-Dental Services
Decision Date:	08/01/2024	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 April 25, 2024, MassHealth denied appellant's prior authorization for comprehensive orthodontic treatment. (Ex.1). The appellant filed this appeal in a timely manner. (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 braces or 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 an [REDACTED] female and a MassHealth member who was represented at hearing by her mother. (Ex. 6). 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. All parties appeared in person at the hearing site in Quincy.

Dr. Moynihan stated that MassHealth does not cover every case for every child. They only cover severe and handicapping cases. By law, the agency can only cover requests and pay for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the appellant has imperfect teeth, or that the member and their family has been told by a dentist that the patient would generally need or benefit from braces. Instead, to obtain approval, the bite or condition of the teeth must have enough issues or discrepancies that it falls into the group of malocclusions with the most severe or handicapping issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and found a score of 36. (Ex. 5, p. 11). Dr. Moynihan testified that, on the HLD point scale, 22 points is needed for approval. Dr. Moynihan testified that she scored a 12 on the scale. (Testimony). DentaQuest reached a score of 10. (Ex. 5, p. 18).

Specifically, Dr. Moynihan testified that on the HLD scale, appellant's orthodontist, DentaQuest and herself found a score of 2 for Overjet. (Testimony; Ex. 5, p. 11, 18). In scoring Overbite, Dr. Moynihan stated she scored 1 as did appellant's orthodontist. (Testimony; Ex. 5, p. 11). DentaQuest scored 2 on Overbite. (Ex. 5, p. 18). Dr. Moynihan's score for the Mandibular Protrusion was 0 while appellant's orthodontist found a score of 15. (Testimony; Ex. 5, p. 11). DentaQuest scored a 0. (Ex. 5, p. 18). Regarding Anterior Open Bite, Dr. Moynihan only found 1 mm for a score of 4 (Testimony) while appellant's orthodontist awarded 2 mm for a score of 8. (Ex. 5, p. 11). DentaQuest found 1 mm for a score of 4. (Ex. 5, p. 18). In scoring the Labio-Lingual Spread, the orthodontist found a score of 10. (Ex. 5, p. 11). DentaQuest found a score of 2. (Ex. 5, p. 18). Dr. Moynihan, after measuring appellant's mouth, scored a 5. (Testimony).

Regardless of point total, it is also possible to qualify for orthodontic treatment if the appellant has a condition deemed an Autoqualifier. Here, the appellant's provider did indicate the presence of an Autoqualifier, namely Spacing of 10 mm or more in either the maxillary or mandibular arch. (Ex. 5, p. 11). DentaQuest did not find the presence of an Autoqualifier. (Ex. 5, p. 18). Dr. Moynihan testified she also did not find an Autoqualifier present because after her in-person exam of appellant she only found 5 mm of spacing. (Testimony).

It is additionally possible to qualify for comprehensive orthodontic treatment if that treatment is medically necessary for appellant. For appellant's particular conditions to be evaluated to see if those conditions support a Medical Necessity determination, evidence, in the form of a Medical Necessity Narrative letter and supporting documentation, must be submitted by appellant's requesting provider. Generally, this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental. Here, the appellant's orthodontic provider did not provide a Medical Necessity Narrative, nor was any additional supporting documentation submitted. (Ex. 5, p. 12). Moreover, Dr. Moynihan's testimony and DentaQuest's submitted evidence do not support a Medical Necessity determination at this time. (Testimony; Ex. 5).

Appellant's mother testified that her daughter's orthodontist, who has been seeing appellant for ■■■ years, told her that if her daughter did not get braces now she might need surgery on her jaw. The mother stated appellant has been in treatment since she was ■■■ years old.

Findings of Fact

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

1. Appellant is an ■■■-old female and a MassHealth member. (Testimony; Ex. 1; Ex. 5; Ex. 6).
2. On April 25, 2024, MassHealth denied the appellant's prior authorization request for comprehensive orthodontic treatment.
3. Neither the initial DentaQuest review nor the review testified to by Dr. Moynihan found evidence of 22 or more points on the HLD scale. (Ex. 5, p. 18; Testimony). MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. (Testimony).
4. Appellant's provider submitted an HLD score of 36 points. (Ex. 5, p. 11).
5. At hearing, Dr. Moynihan examined appellant's mouth and reviewed the provider's paperwork, photographs, and X-rays. She calculated an HLD score of 12. (Testimony). DentaQuest found an HLD score of 10. (Ex. 5, p. 18).
6. There is no evidence that the appellant has any mandibular protrusion.
7. The appellant's anterior open bite measures no more than 1 mm.

8. The appellant's labio-lingual spread measures no more than 5 mm.
9. The appellant's total HLD score is below 22.
10. Neither Dr. Moynihan nor DentaQuest found an auto qualifier to be present. (Testimony; Ex. 5, p. 18).
11. Appellant's orthodontist found the Autoqualifier of Spacing of 10 mm or more, in either the maxillary or mandibular arch to be present. (Ex. 5, p. 11).
12. The appellant does not have spacing of at least 10 mm in either the maxillary or mandibular arch.
13. Appellant's orthodontic provider did not submit documentation related to whether treatment is medically necessary in accordance with the instructions on the latter pages of the HLD form. (Ex. 5, p. 12; Testimony).
14. Dr. Moynihan's testimony does not support a Medical Necessity determination at this time. (Testimony).
15. DentaQuest's submitted evidence does not support a Medical Necessity determination at this time. (Ex. 5).

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.,¹ 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:

¹ 130 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>.

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 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.

A review of the different HLD scores is required to ascertain if appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. Here, the appellant's orthodontic provider calculated a score of 36 points on the HLD scale. Dr. Moynihan only found an HLD score of 12. (Testimony). Dr. Moynihan testified that after she carefully looked at photos and x-rays of appellant's mouth and she had the opportunity to examine appellant at the hearing. There are **three** main areas of contention. The first is Mandibular Protrusion. Dr. Moynihan stated this was "not off" by any millimeters, so she awarded 0 points after her in-person evaluation of appellant while appellant's orthodontist awarded 15 points. DentaQuest did not award any points. The second criteria at

issue are Anterior Open Bite. Dr. Moynihan scored this a 4 after her in-person evaluation of appellant. Appellant's orthodontist scored 8. DentaQuest scored a 4. The third area of disagreement is Labio-Lingual Spread. Dr. Moynihan stated the evaluator is to measure each jaw and take the higher of the two measurements. She stated she scored a 5 after her in person measurement. DentaQuest scored 2. Appellant's orthodontist scored a 10. Dr. Moynihan stated she believed the orthodontist incorrectly counted both upper and lower jaws.

If Dr. Moynihan's scoring on the HLD scale is credited, you would have 0 points for Mandibular Protrusion, 4 points for Anterior Open Bite and 5 points for Labio-Lingual Spread. You would then adjust the score of appellant's orthodontist to 15 on the HLD scale.²

Appellant's orthodontist found the Autoqualifier of Spacing of 10 mm or more, in either the maxillary or mandibular arch to be present in appellant's mouth. Dr. Moynihan testified that after her in-person examination of appellant, she only found 5 mm of spacing, so she did not find this Autoqualifier to be present.

I credit the testimony of Dr. Moynihan, which was consistent with the appellant's presentation at hearing. I find her explanation of her process in reviewing photos, x-rays and her in-person examination to be very thorough. Dr. Moynihan is an orthodontist who provided credible testimony and based on the overall testimony given at hearing, I find that the opinion of the orthodontist present at hearing to be persuasive and plausible, especially as she was subject to cross examination by appellant and her mother.

Appellant has not met her burden and the appeal is denied.

Order for MassHealth

None.

² Appellant's orthodontist's score includes 2 points for Overjet and 1 point for Overbite.

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

MassHealth Representative: DentaQuest 1, MA