

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2411379
Decision Date:	09/19/2024	Hearing Date:	08/21/2024
Hearing Officer:	Marc Tonaszuck	Record Open to:	09/06/2024

Appearance for Appellant:



Appearance for MassHealth:

Dr. Harold Kaplan, 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:	09/19/2024	Hearing Date:	08/21/2024
MassHealth's Rep.:	Dr. Harold Kaplan, DentaQuest	Appellant's Rep.:	██████████
Hearing Location:	Springfield MassHealth Enrollment Center	Aid Pending:	No

Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

Jurisdiction

Through a notice dated 07/12/2024, MassHealth informed the appellant that it denied a request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). A timely appeal was filed on the appellant's behalf on 07/23/2024¹ (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

A fair hearing was held on 08/21/2024, at which the appellant's mother appeared in person at the Springfield MassHealth Enrollment Center (Exhibit 3). The DentaQuest orthodontist appeared virtually. At the hearing, the appellant's representative requested additional time to submit a letter from the appellant's orthodontist in support of the appellant's request for comprehensive orthodontics. Her request was granted, and the record remained open until 08/30/2024 for the appellant's submission and until 09/06/2024 for MassHealth's response (Exhibit 5). Both parties made submissions during the record open period (Exhibits 6 and 7).

¹ The appellant is a minor child who was represented in these proceedings by her mother. The appellant was not present at the fair hearing.

Action Taken by MassHealth

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

Issue

Did MassHealth correctly deny the appellant's prior authorization request for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

Summary of Evidence

Dr. Harold Kaplan, the MassHealth orthodontic consultant, is a licensed orthodontist from DentaQuest, who appeared virtually at the fair hearing. The appellant, a minor child, was represented by her mother at the fair hearing. Exhibits 1-4 were admitted into the hearing record.

Dr. Kaplan testified for MassHealth that the appellant's provider, [REDACTED], requested prior authorization for comprehensive orthodontic treatment on behalf of the appellant, who is under 21 years of age. He stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion. The appellant's request was considered after review of the oral photographs and written information submitted by the appellant's orthodontic provider. This information was applied to a standardized Handicapping Labio-Lingual Deviations (HLD) Index that is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion. The orthodontist testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. A severe and handicapping malocclusion typically reflects a minimum score of 22. MassHealth submitted into evidence: HLD MassHealth Form; the HLD Index; PA packet; photos; and X-rays (Exhibit 4).

MassHealth testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had an HLD score of 15 points, which did not reach the minimum score of 22 required for MassHealth payment of the orthodonture. The appellant's treating orthodontist did, however, identify an auto-qualifying situation; specifically, that the appellant has an "impinging overbite," a condition that, when verified, is an automatic qualifying condition for MassHealth payment of comprehensive orthodontia.

MassHealth/DentaQuest received the PA request with attachments on 06/26/2024 and it was reviewed by an orthodontist. The DentaQuest orthodontist agreed with the appellant's treating orthodontist that the appellant did not have a demonstrated severe or handicapping malocclusion, as evidenced by an HLD score that does not reach the 22-point threshold. Additionally, DentaQuest

determined that the appellant does not have an “impinging overbite,” or any other auto-qualifying conditions. The request was denied by DentaQuest on 07/12/2024.

At the fair hearing, the DentaQuest orthodontist testified that he reviewed the appellant’s materials that were provided to MassHealth with the prior authorization request from the orthodontist. The DentaQuest orthodontist testified that his review confirmed the provider’s conclusion that the appellant’s HLD score did not reach the score of 22 necessary for a determination that of a severe and handicapping malocclusion. He also testified that he could not see in the photographs that the appellant has evidence of contact between her front bottom teeth and the tissue behind her top front teeth. Because he was unable to verify an auto-qualifying condition, or an HLD score of 22, he upheld DentaQuest’s denial for comprehensive orthodontic services.

The appellant’s mother appeared at the fair hearing and testified that she “has seen damage to [the appellant’s] roof of her mouth by her lower teeth.” The mother stated that the appellant has an overbite, grinds her teeth, has pain in her mouth and gum when she eats due to the spaces between her teeth. The mother requested an opportunity to present evidence that the appellant has an impinging overbite. Her request was granted, and the record remained open until 08/30/2024 for her submission and until 09/06/2024 for DentaQuest’s response (Exhibit 5).

On 08/23/2024, the hearing officer received an email from the appellant’s orthodontic provider that states, “hi good afternoon, attached is [sic] all the forms you have requested for [the appellant]. If you need any more information, please let me know.” Attached was a copy of the record open form and one photograph of the appellant’s top arch, showing the roof of her mouth (Exhibit 6).

On 08/24/2024, Dr. Kaplan responded to the appellant’s submission by writing the following to the hearing officer:

The photo enclosed is the same photo of the maxillary palatal surface that was in the original records. Yes [the appellant] has a deep overbite (she received 4 points for it), but it looks perfectly normal with no sign of dental impingement. The lateral cephalogram shows the lower anterior teeth occluding on the lingual surface of the upper incisors. Therefore this case has a deep overbite but not a deep Impingement overbite and I must uphold the denial.

(Exhibit 7.)

Findings of Fact

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

1. The appellant is under 21 years of age (Testimony).

2. On 06/26/2024, the appellant's orthodontic provider, [REDACTED], requested prior authorization for comprehensive orthodontic treatment (full braces) (Testimony, Exhibit 4).
3. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
4. As one determinant of a severe and handicapping malocclusion, MassHealth employs a system of comparative measurements known as the HLD Index score.
5. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
6. The appellant's orthodontic provider, selected by the appellant, calculated an HLD score of 15 points, based on measurements he took of the appellant's malocclusion.
7. In the prior authorization request, the appellant's orthodontic provider also alleged that the appellant had an automatic qualifying condition; specifically, an impinging overbite.
8. The appellant's provider indicated on the HLD Index that he was not including a medical necessity narrative with the prior authorization request.
9. DentaQuest reviewed the treating orthodontist's submission and agreed with him that the appellant's malocclusion did not meet the required 22 points on the HLD Index. Additionally, DentaQuest could not find an auto-qualifying condition.
10. DentaQuest, on behalf of MassHealth, denied the appellant's request for comprehensive orthodontic treatment on 07/12/2024.
11. A timely appeal of MassHealth's determination was submitted to the Board of Hearings on 07/23/2024.
12. A fair hearing took place before the Board of Hearings on 08/21/2024.
13. The appellant's mother appeared in person at the fair hearing.
14. MassHealth's representative at the fair hearing was an orthodontist employed by DentaQuest, MassHealth's dental contractor. He appeared virtually.
15. Using measurements taken from the appellant's oral photographs, X-rays, and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant did not have a an HLD score of 22 or above or an automatic qualifying condition.

16. There is no evidence that the appellant's bottom front teeth come into contact with the tissue behind the top front teeth.
17. At the fair hearing, the appellant's mother requested an opportunity to submit evidence that the appellant has an impinging overbite.
18. The mother's request was granted, and the record remained open until 08/30/2024 for the appellant's submission and until 09/06/2024 for MassHealth's response.
19. On 08/23/2024, the hearing officer received an email from the appellant's orthodontic provider that states, "hi good afternoon, attached is [sic] all the forms you have requested for [the appellant]. If you need any more information, please let me know." Attached was a copy of the record open form and one photograph of the appellant's top arch, showing the roof of her mouth.
20. On 08/24/2024, Dr. Kaplan responded to the appellant's submission by writing the following to the hearing officer:

The photo enclosed is the same photo of the maxillary palatal surface that was in the original records. Yes [the appellant] has a deep overbite (she received 4 points for it), but it looks perfectly normal with no sign of dental impingement. The lateral cephalogram shows the lower anterior teeth occluding on the lingual surface of the upper incisors. Therefore this case has a deep overbite but not a deep Impingement overbite and I must uphold the denial.

(Exhibit 7.)

Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

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

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the *Dental Manual*.

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22. Alternatively, verification of medical necessity not addressed by the HLD Index can also qualify a child for comprehensive orthodonture.

In his submission to MassHealth, the appellant's treating orthodontist calculated an overall HLD Index score of 15 points, well below the necessary 22 points. The appellant's orthodontic provider noted on the HLD Index score sheet that the appellant has an "impinging overbite," a condition that if verified qualifies the appellant for payment for braces. At the fair hearing, Dr. Kaplan testified that there is no evidence that the appellant has an "impinging overbite" as defined by the HLD Index score sheet.

The HLD Index score sheet defines an "impinging overbite" as "evidence of occlusal contact into the opposing soft tissue." The treating orthodontist provided no further information with his assertion that the appellant meets the criteria of this automatic qualifying condition. Dr. Kaplan referenced the appellant's X-ray showing the profile of the front part of the appellant's head. Dr. Kaplan directed the hearing officer to the front teeth and testified that when the appellant closes her mouth, the bottom front teeth touch the back of the front top teeth, not the tissue behind the top teeth. As a result, the appellant does not have an "impinging overbite," as defined by the HLD Index score sheet.

During the record open period, the appellant's orthodontic provider submitted one photograph and a copy of the record open form. In response, the MassHealth orthodontist stated that the photograph is a duplicate of one submitted with the prior authorization request and that it does not show an impinging overbite. There is no evidence that the appellant's bottom front teeth come into contact with the tissue behind the front top teeth.

The appellant's mother testified that the appellant has some issues that may or may not be connected to her need for orthodonture; however, there was no nexus between the alleged problems the appellant experiences and how they correspond to MassHealth's guidelines for approval. Dr. Kaplan testified credibly and demonstrated a familiarity with the HLD Index score sheet. He was also available to be questioned by the hearing officer and cross-examined by the appellant's representative. Further, he testified credibly that no other information was provided to show medical necessity. Dr. Kaplan's testimony, as a licensed orthodontist, was given greater weight than the testimony of the appellant's mother, who is not a clinical dental professional. There is nothing in the hearing record to show that the appellant's current situation meets MassHealth criteria for payment of comprehensive orthodontia. Accordingly, 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

MassHealth Representative: DentaQuest 1, MA