

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2412035
Decision Date:	10/25/2024	Hearing Date:	09/09/2024
Hearing Officer:	Christopher Jones		

Appearances for Appellant:
Pro se
Teresa Barrett

Appearance for MassHealth:
Dr. Katherine Moynihan



*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 – Orthodontia
Decision Date:	10/25/2024	Hearing Date:	09/09/2024
MassHealth's Rep.:	Dr. Katherine Moynihan	Appellant's Rep.:	Pro se; Mother
Hearing Location:	Charlestown 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 June 4, 2024, MassHealth denied the appellant's prior authorization request for orthodontia. (See Exhibits 1; 5; 130 CMR 420.431.) The appellant filed this appeal in a timely manner on August 5, 2024. (Exhibit 2; 130 CMR 610.015(B).) Denial of assistance is valid grounds for appeal. (130 CMR 610.032.)

Action Taken by MassHealth

MassHealth denied the appellant's prior authorization request for orthodontia.

Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that comprehensive orthodontia was not medically necessary because the appellant does not have a Handicapping Labio-Lingual Deviations Score of at least 22 points.

Summary of Evidence

The appellant's provider submitted a prior authorization request seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations ("HLD") Form. The appellant's orthodontist found an HLD Score of 28 points based upon three points for overjet, seven points for overbite, three points for an ectopic eruption, 10 points for crowding in the upper and lower front teeth (five points per arch), and five points for labio-lingual spread. (Exhibit 6, pp. 8-17.)

DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant's HLD Score was nine points based upon three points for overjet, four points for overbite, and two points for labio-lingual spread. (Exhibit 6, p. 7.) At the hearing, Dr. Moynihan testified that MassHealth pays for orthodontia when the member's bite is sufficiently severe to be considered handicapping. MassHealth uses the HLD Score to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion."

Dr. Moynihan looked at the appellant's bite in person and largely agreed with DentaQuest's determination. Dr. Moynihan measured five points of overjet, four points of overbite, and two points of labio-lingual spread for a total of 11 points. The provider identified tooth number 30 as being ectopic. Dr. Moynihan explained that an ectopic eruption, for MassHealth's purposes, is a tooth that is outside of the arch of the rest of the teeth. The appellant's tooth number 30 is rotated and tucked in a little, but it is not completely out of the arch, and that is why MassHealth does not consider it to be ectopic.

Dr. Moynihan also explained that anterior crowding is only scored when at least 3.5 millimeters of crowding exists in the anterior teeth. Crowding is where the teeth are overlapping each other. (Testimony). Dr. Moynihan testified that the appellant has a little bit of crowding in both arches, but not 3.5 millimeters. Dr. Moynihan pointed out on the submitted images where she saw some crowding and why it did not satisfy 3.5 millimeters in arch insufficiency. Dr. Moynihan acknowledged that most kids would benefit from orthodontia, the appellant included, but that he does not qualify for coverage under the HLD system as having a handicapping or disfiguring bite.

The appellant's mother felt that the system was wrong. She argued that an entire generation of children are being made to suffer to allow for the system to save money.

Findings of Fact

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

- 1) The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found an

HLD Score of 28 points, including three points for an ectopic eruption and 10 points for crowding in the upper and lower front teeth. (Exhibit 6, pp. 8-17.)

- 2) MassHealth denied comprehensive orthodontia, finding nine points on the HLD Scale. (Exhibit 6, p. 7.)
- 3) At the hearing, Dr. Moynihan measured the appellant's HLD Score and found 11 points. (Testimony by Dr. Moynihan.)
- 4) The appellant's tooth number 30 is not ectopic because it is only slightly out of alignment of the rest of the arch, though it is also rotated. There is not at least 3.5 millimeters of crowding in either the front upper or front lower arch. (Testimony by Dr. Moynihan.)

Analysis and Conclusions of Law

MassHealth covers orthodontic services when it determines such treatment to be medically necessary. (130 CMR 420.431.) Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.¹ (130 CMR 450.204.) Pursuant to 130 CMR 420.431(C)(3), MassHealth "pays for comprehensive orthodontic treatment ... 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." The regulations do not speak directly to what conditions qualify as "severe and handicapping" except to specifically cover "comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies" (130 CMR 420.431(C)(3).)

The HLD Scale is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth's policy is that a score of 22 or higher signifies a "severe and handicapping malocclusion," ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

The ORM defines "Anterior Crowding" as

¹ The Dental Manual and Appendix D are available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited September 19, 2024.) Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"). (Available at <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>, last visited September 19, 2024.)

Arch length insufficiency [in excess of] 3.5 mm. Score only fully erupted incisors and canines. Mild rotations that may react favorably to stripping or mild expansion procedures are not to be scored as crowded. Enter 5 points for maxillary and mandibular anterior crowding. If condition no. 5, ectopic eruption, is also present in the anterior portion of the mouth, score only the most severe condition. Do not score both conditions.

(ORM, App. B., p. 6.)

The instructions for “Ectopic Eruption” are:

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. If condition no. 6, anterior crowding, is also present, with an ectopic eruption in the anterior portion of the mouth, score only the most severe condition. Do not score both conditions.

(ORM, App. B., p. 6.)

After examining the appellant at hearing, Dr. Moynihan testified that the appellant does not have at least 3.5 millimeters of crowding in either front arch. She was able to describe where she saw crowding, and why it did not qualify as “anterior crowding” as defined by MassHealth. Similarly, Dr. Moynihan explained why the appellant’s molar would not be considered ectopic. The appellant’s molar is undoubtedly out of alignment, but it is not “blocked out of the arch” in its entirety. Therefore, I credit Dr. Moynihan’s opinion and find that the appellant does not have anterior crowding or an ectopic eruption at this time. In the absence of these 13 points, the provider’s HLD Score is below 22 points. The appellant’s provider did not claim, nor did MassHealth find, that the appellant has any of the autoqualifiers listed on the HLD form, and no medical necessity narrative was submitted. MassHealth’s determination is upheld and 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.

Christopher Jones
Hearing Officer
Board of Hearings

MassHealth Representative: DentaQuest 1, MA