

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of )  
 )  
 M L ) OAH No. 16-1506-MDX  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

Ms. L's orthodontist filed a request for comprehensive orthodontic treatment for Ms. L through the Medicaid program. The Division of Health Care Services denied the request because it did not meet the program criteria for orthodontia. Ms. L's guardian appealed.

Because the request submitted did not meet the criteria for prior authorization of comprehensive orthodontic treatment, the division's decision denying authorization for comprehensive orthodontic treatment is affirmed.

**II. Facts**

Ms. L is sixteen years old, and lives in No Name. She went to Dr. E Q, an orthodontist in Anchorage, with concerns about her crowded teeth and headaches.<sup>1</sup> Dr. Q found that Ms. L's teeth were misaligned and crowded. Dr. Q recommended comprehensive orthodontic treatment for Ms. L. He requested authorization for the treatment from the Medicaid program. His request included a letter describing his treatment plan for Ms. L, the required films and photographs of Ms. L's teeth, and a "handicapping labiolingual deviation" (HLD) index report with a score of 24.<sup>2</sup> He also checked a box on the HLD form requesting an exception to the program requirement of an HLD score of 26 or higher.<sup>3</sup>

The division denied the request, stating that it would only pay for orthodontia if the recipient has an HLD score of 26 or more, or the requested services are otherwise medically necessary.<sup>4</sup> Ms. L's guardian appealed.

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<sup>1</sup> Exhibit E at 5.  
<sup>2</sup> Exhibit E.  
<sup>3</sup> Exhibit E at 2.  
<sup>4</sup> Exhibit D.

A telephonic hearing was held on February 22, 2017. J T, Ms. L's guardian, represented Ms. L. Fair hearing representative Angela Ybarra represented the division. Mary Hansen, Dental Program Manager for the Medicaid program, testified.

### III. Discussion

The Medicaid program regulation governing orthodontia for recipients under age 21 provides that the program will pay for comprehensive orthodontic procedures for recipients with an HLD index score of 26 or greater or "medical necessity due to functional impairment."<sup>5</sup> If a recipient has an HLD score of less than 26, "additional medical information is required to determine the recipient's functional abilities."<sup>6</sup>

Ms. L does not meet the HLD score criteria of 26 for coverage of comprehensive orthodontia under the program. Dr. Q scored Ms. L's overjet at 6, overbite at 4, anterior crowding at 2, and labiolingual spread at 4, for a total HLD score of 24.<sup>7</sup> Overjet and overbite are measured in millimeters, and these measurements are translated into the HLD score on the form. Ms. T submitted additional evidence regarding the extent of Ms. L's overbite and overjet from Ms. L's dentist, Dr. D T. Dr. T found a larger overbite and larger overjet than Dr. Q measured.<sup>8</sup> However, it is the measurement made by the orthodontist and reflected on the HLD report that the division considers in evaluating a request for prior authorization.<sup>9</sup>

Dr. Q also requested an EPSDT exception on the HLD index report form, with a handwritten note "bruxism" and "TMJ." The division requires that a request for an EPSDT exception be supported by appropriate documentation.<sup>10</sup> Dr. Q provided a letter explaining his treatment recommendation, along with the materials required to support the request for prior authorization.<sup>11</sup> However, Dr. Q did not provide additional documentation in the eight areas specified on the HLD form to support the EPSDT exception request. Ms. T testified that Ms. L participated in a sleep study recommended by Dr. S at No Name Clinic, and that the study found

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<sup>5</sup> 7 AAC 110.153(a)(3) (Exhibit B at 7).

<sup>6</sup> Department of Health and Social Services, Health Care Services "Orthodontic Services Statement of Coverage" (July 1, 2015) at 8 - 9, incorporated by reference at 7 AAC 160.900(23). Part of the text of an earlier version of this statement of coverage is included at Exhibit B, pages 10 - 13. The full text was accessed at <http://dhss.alaska.gov/dhcs/Documents/PDF/orthodontia.pdf> on February 22, 2017.

<sup>7</sup> Exhibit E at 2.

<sup>8</sup> Letter from Dr. T and patient chart note dated February 15, 2017.

<sup>9</sup> 7 AAC 110.153(a)(3)(C).

<sup>10</sup> Exhibit E at 2. The HLD index form has been adopted by reference into the program regulations in 7 AAC 160.900.

<sup>11</sup> Exhibit E at 5. See 7 AAC 110.153(a)(3) for the list of materials required to support a request for prior authorization.

Ms. L has moderate to severe sleep disturbances. It was recommended that Ms. L get an oral device designed to ameliorate sleep apnea and other sleep disturbances. However, Ms. L could not get that device due to the current condition of her teeth.

Because this is a request for an additional benefit, the burden of proof is on the applicant, by a preponderance of the evidence.<sup>12</sup> Although Ms. T's testimony suggests that there may be additional medical information available to support Ms. L's need for orthodontic treatment, it was not incorporated into Dr. Q's request for prior authorization. The record presented does not support a finding that the division incorrectly denied Dr. Q's November 23, 2016 request for prior authorization. However, nothing in this decision prevents Ms. L's orthodontist from submitting a new request.

#### **IV. Conclusion**

The request for prior authorization from Dr. Q did not show that Ms. L had an HLD index of 26 or higher, and it did not demonstrate that comprehensive orthodontia was otherwise medically necessary. Therefore, the division's December 15, 2016 denial of the request for prior authorization is affirmed.

Dated: March 31, 2017.

*Signed*

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Kathryn L. Kurtz  
Administrative Law Judge

#### **Adoption**

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED: April 18, 2017.

*Signed*

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Kathryn L. Kurtz  
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]

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<sup>12</sup> 7 AAC 49.135.