

Decisions

- If the issue at hearing is an eligibility issue, judges should write the decision for DHS.
- If the issue is a needs assessment, judges should write the decision for both CDSS and DHS.
- If the issue involves the share of cost, judges should write the decision for both CDSS and DHS.

On occasion, a hearing may involve an applicant or recipient who is not eligible for full-scope federally funded Medi-Cal. The applicant or recipient, if eligible, would receive in-home services under the IHSS Residual program. For those applicants or recipients, IHSS residual rules apply to eligibility issues, share of cost issues as well as to needs assessments. Any hearing involving the IHSS Residual program should be written only for the CDSS.

ITEM 05-7-1(C): Need for Study Models to Approve Orthodontic Services in Denti-Cal Cases

In Denti-Cal orthodontic hearings, for authorization of services, a child must have a Handicapping Labio-Lingual Deviation (HLD) index score of 26, or have one of five conditions that allow for authorization of orthodontia without a 26 HLD index score. The Medical Dental Services Branch (MDSB) requires the treating dentist to submit an HLD index as well as a study model of the patient's teeth.

One notable exception occurs when the Medi-Cal Orthodontist invokes the Early and Periodic Screening, Diagnosis, and Treatment Supplemental Services (EPSDT-SS) exception. Each of these cases is adjudicated by an MDSB Dental Program Consultant in accordance with Title 22, California Code of Regulations, Sections 51340 and 51340.1.

The following is from the Denti-Cal Manual of Criteria and is also found at paraphrased regulation 531-11:

The Denti-Cal Provider Manual contains the complete Manual of Criteria for Medi-Cal authorization (Dental Services). Orthodontic services for Handicapping Malocclusion are covered as follows:

1. The provision of medically necessary orthodontic services for handicapping malocclusion is limited to Medi-Cal eligible individuals under 21 years of age by a dentist qualified as orthodontist under the California Code of Regulations, Title 22, §51223(c).
2. The following policies and requirements apply to orthodontic services for handicapping malocclusion:
 - a. **The initial orthodontic examination, which includes the Handicapping Labio-Lingual Deviation (HLD) Index (procedure code 551) and the subsequent Study Models (procedure code 558), are required procedures to establish the medical necessity for orthodontic services for handicapping malocclusion.** The HLD Index is the preliminary measurement tool used to determine the degree of the handicapping malocclusion. Completion of the initial orthodontic examination which includes the HLD Index does not require prior authorization. All other orthodontic services require prior authorization.
 - b. A minimum score of 26 points on the HLD Index, or the indication that any of the five conditions listed below are present, is required for prior authorization of study models. **The study model findings must confirm at least the minimum score attained on the HLD Index, or that one of the five conditions listed below is present,** or that orthodontic services are necessary under Title 22 §51340.1(a)(2)(B) in order to obtain prior authorization of medically necessary orthodontic services. (This does not preclude authorization of x-rays and/or photographs in addition to study models if medically indicated.)

- (1) Cleft palate deformities; or

- (2) Deep impinging overbite in which the lower incisors are destroying the soft tissue of the palate; or
 - (3) Crossbite of individual anterior teeth that is destroying soft tissue; or
 - (4) Overjet greater than nine (9) mm with incompetent lips, or reverse overjet greater than 3.5 mm with reported masticatory and speech difficulties; or
 - (5) Severe traumatic deviations, e.g., loss of a premaxilla segment, osteomyelitis, gross pathology.
- c. Only cases with permanent dentition will be considered.
 - d. Only cases with satisfactory completion of all necessary restorative and periodontal conditions will be considered.

(Denti-Cal Provider Manual 4-44, as revised June 1999)

In most cases that come to hearing, the treating dentist's HLD index score equals or exceeds 26 while the HLD index completed by Denti-Cal consultants is below 26. Judges have questioned whether they should give more credibility to the HLD index score of the Denti-Cal consultants or to the treating dentist.

There are also cases where the treating dentist submits a Treatment Authorization Request (TAR) in which the dentist contends that the beneficiary has one of the conditions that are an exception to the 26 score such as a deep impinging overbite in which the lower incisors are destroying the soft tissue of the palate. The Denti-Cal consultants find no such condition after reviewing a study models.

In this unique circumstance, the study model evaluation is the only acceptable method to evaluate the case. A direct examination of the patient by a regional screening dentist is of no significant value. The trained evaluator needs the model. The settlement of *Brown v. Kizer* established an accepted means to determine if Denti-Cal may pay for orthodontic treatment of malocclusion.

Denti-Cal Provider Manual 4-44, makes clear that study models must confirm an HLD index score of 26 or one of the five listed conditions are present. If the treating dentist has not used the study model to find the HLD index score or a condition that meets an exception to the 26 score, the treating dentist's evaluation may not be the basis to authorize orthodontic services unless a study model verifies the treating dentist's evaluation.

ITEM 05-3-1: Paraphrased Regulations

This version of the paraphrased regulations adds 31 new paraphrased regulations, revises 26 and deletes 26. In addition, three paraphrased regulations are renumbered. The major changes involve more revisions to the quarterly reporting regulations and the addition of All County Letter (ACL) 04-59 regarding the authorization of food stamp benefits for certain categories of drug felons.

The paraphrased regulations that were deleted all involve CalWORKs quarterly reporting. Most are deletions of references to All County Letter 03-18 that preceded CalWORKs regulations that became effective July 1, 2004. Judges should be citing regulations rather than ACL 03-18 for any action that took effect on or after July 1, 2004 if there is a valid regulation to cite. For QR issues before July 1, 2004, ACL 03-18 should be cited.