

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2112100
<b>Decision Date:</b>	10/22/2021	<b>Hearing Date:</b>	10/13/2021
<b>Hearing Officer:</b>	Marc Tonaszuck		

**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

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Dental - Orthodontics
<b>Decision Date:</b>	10/22/2021	<b>Hearing Date:</b>	10/13/2021
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan, DentaQuest	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center		

## 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 03/07/2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 1A). The appellant filed this appeal in a timely manner on 03/22/2021 (see 130 CMR 610.015(B) and Exhibit 2A)<sup>1</sup>.

Through a notice dated 08/30/2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 1B). The appellant filed this appeal in a timely manner on 09/18/2021 (see 130 CMR 610.015(B) and Exhibit 2B).

Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(E), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared at hearing via telephone. MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and X-rays on 03/03/2021. She submitted a duplicate packet<sup>2</sup> on 08/28/2021. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations ("HLD") Form, which requires a total score of 22 or higher for approval or that the appellant has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider's HLD Form indicates that the providing orthodontist found a total score of 24, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
Overbite in mm	7	1	7
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	2	3	6

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<sup>2</sup> The appellant's orthodontist submitted a duplicate packet that contained the same photographs, X-rays and HLD Index form (Exhibits 4A and 4B).

Anterior Crowding <sup>3</sup>	Maxilla: 0 Mandible: 0	Flat score of 5 for each <sup>4</sup>	0
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	2	3	6
<b>Total HLD Score</b>			<b>24</b>

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 12. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	7	1	7
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>12</b>

Because it found an HLD score below the threshold of 22 and no auto qualifier, MassHealth denied the appellant's prior authorization request on 03/08/2021 and again on 08/31/2021.

<sup>3</sup> The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores.

<sup>4</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

At hearing, Dr. Kaplan completed an HLD form based on a careful review of the X-rays and photographs. He determined that the appellant's overall HLD score was 18. Dr. Kaplan's HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	7	1	7
Mandibular Protrusion in mm	0	5	0
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	2	3	6
Anterior Crowding	Maxilla: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>18</b>

Dr. Kaplan testified that the main differences between the appellant's provider's score and his is the scoring of the posterior impactions. He explained that an impacted tooth is one where a tooth will not erupt and is therefore stuck in the bone underneath the gum. Dr. Kaplan stated that he can see the two teeth that are referenced by the appellant's orthodontist; however, the X-rays received are from March 2021. According to what Dr. Kaplan can see in the X-rays, he stated that those two teeth should have no trouble erupting and it is premature to make a determination that they are impacted. The impacted teeth cannot be scored. As a result, the appellant cannot have HLD points for impacted posterior teeth, thereby reducing the HLD Index score by 6 points. Dr. Kaplan concluded that without a score of at least 22, an auto-qualifier or other evidence of medical necessity, MassHealth cannot approve comprehensive orthodontic treatment in this case.

The appellant's mother testified that she is dental assistant for a general dentist. She stated that the pano X-ray shows that the appellant has mandibular bone covering his second molars. Without oral surgery, his molars will remain impacted. They also need to move his teeth with orthodontics. The appellant is in a lot of discomfort and has been for some time. The mother stated that she is single mother who receives "no help" from the appellant's father.

## Findings of Fact

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

1. On 03/03/2021, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. On 08/28/2021, the appellant's orthodontic provider submitted a duplicate prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
3. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 24 (Exhibit 4).
4. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Exhibit 4).
5. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
6. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 12 (Exhibit 4).
7. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
8. On 03/07/2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
9. On 03/22/2021, the appellant filed a timely appeal of the denial (Exhibit 2).
10. On 08/31/2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
11. On 09/18/2021, the appellant filed a timely appeal of the denial (Exhibit 2).
12. At hearing on 10/13/2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 18 (Testimony).
13. The appellant's HLD score is below 22.
14. The appellant does not have any of the conditions that warrant automatic approval

of comprehensive orthodontic treatment (cleft palate, severe maxillary anterior crowding greater than 8 mm, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm).

## **Analysis and Conclusions of Law**

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

The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime under the age of 21 and only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on the clinical standards for medical necessity as described in Appendix D of the Dental Manual.

Appendix D of the Dental Manual is the “Handicapping Labio-Lingual Deviations Form” (HLD), which is described as a quantitative, objective method for measuring malocclusion. The HLD index provides a single score, based on a series of measurements that represent the degree to which a case deviates from normal alignment and occlusion. MassHealth has determined that a score of 22 or higher signifies a severe and handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of a cleft palate, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, or severe maxillary anterior crowding, greater than 8 mm.

The appellant’s provider found an overall HLD score of 24. After reviewing the provider’s submission, MassHealth found an HLD score of 12. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 18.

The main difference between the appellant’s provider’s score and that of Dr. Kaplan’s are the scoring of the posterior impacted teeth. The appellant’s orthodontist gave the appellant 6 points for two instances of posterior impacted teeth. In support of his score, the appellant’s orthodontist submitted X-rays. MassHealth essentially agreed with the HLD score submitted by the appellant’s orthodontist; however, at hearing, the MassHealth orthodontist testified credibly that the X-rays show that the two teeth referenced by the appellant’s orthodontist appear to be able to erupt without any issues. He further stated that the X-rays submitted by the orthodontist were from March 2021, seven months prior to the hearing date. The appellant’s mother, a dental assistant for a general dentist, disputed Dr. Kaplan’s testimony. Upon balance of the testimony by the parties, MassHealth’s expert, a licensed orthodontist testified credibly and was able for questioning by the hearing officer and for cross examination by the appellant’s representative. I therefore credit MassHealth’s testimony. MassHealth correctly reduced the appellant’s HLD score

by 6 to comply with the scoring instructions.

The appellant's HLD Index score is not 22 or above, he has not alleged an automatic qualifying condition or medical necessity documentation. As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that he does not have a severe and handicapping malocclusion. 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.

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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA