

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |             |                        |            |
|-------------------------|-------------|------------------------|------------|
| <b>Appeal Decision:</b> | Denied      | <b>Appeal Number:</b>  | 2154337    |
| <b>Decision Date:</b>   | 9/24/2021   | <b>Hearing Date:</b>   | 7/19/2021  |
| <b>Hearing Officer:</b> | Radha Tilva | <b>Record Open to:</b> | 07/27/2021 |

**Appearance for Appellant:**




**Appearance for MassHealth:**

Dr. Carl Perlmutter, DentaQuest consultant



*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>            | PA - orthodontics   |
| <b>Decision Date:</b>     | 9/24/2021              | <b>Hearing Date:</b>     | 7/19/2021   |
| <b>MassHealth's Rep.:</b> | Dr. Carl Perlmutter    | <b>Appellant's Rep.:</b> |  |
| <b>Hearing Location:</b>  | Quincy Harbor<br>South |                          |   |

## 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 March 18, 2021, MassHealth denied appellant's prior authorization request for comprehensive orthodontic treatment (Exhibit 1). The appellant filed this appeal in a timely manner on June 9, 2021 (see 130 CMR 610.015(B) and Exhibit 2).<sup>1</sup> Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

At hearing the record was left open for appellant to submit supporting documentation until July 19, 2021 and for MassHealth to review until July 27, 2021. Appellant submitted the documents and MassHealth reviewed the documentation on July 23, 2021.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct in determining that appellant is ineligible for comprehensive orthodontic treatment.

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<sup>1</sup> The deadline to appeal eligibility determinations was extended to 120 days due to the coronavirus pandemic (see Eligibility Operations Memo 20-09, (April 7, 2020)).

## Summary of Evidence

The appellant is a minor MassHealth member who was represented by his mother. MassHealth was represented at the hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest. DentaQuest is the third-party company that currently administers and manages the dental program available to MassHealth members, including the appellant. The hearing was held telephonically.

The appellant's provider submitted a Prior Authorization ("PA") request for comprehensive orthodontic treatment, including an x-ray and photographs, on March 17, 2021. As required, the provider completed the MassHealth Handicapping Labio-Lingual Deviations Index ("HLD Index"), which requires a total score of 22 or higher for approval. The provider's HLD Index indicates a total score of 23 (Exhibit 4, p. 9). MassHealth will also approve a PA request, without regard for the HLD numerical score, if there is evidence of a 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. The provider found no evidence of any auto qualifiers.

When DentaQuest initially evaluated this PA request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 16 and no evidence of an auto-qualifier. The major discrepancy between the provider and DentaQuest's score was that DentaQuest gave no points for anterior crowding and appellant's provider gave 10. At hearing, Dr. Perlmutter stated that he had only the x-rays, but no photographs, so could not give a score. The MassHealth representative stated that appellant had a lower right molar extraction and was allotted three points for his missing posterior tooth.

The appellant's mother testified that her son needs braces and requested that the record remain open for her to submit the photographs to the MassHealth representative. The record was held open at hearing for appellant to submit the photographs to the MassHealth representative. Appellant submitted the photographs on July 20, 2021. On July 23, 2021 the MassHealth representative responded and stated that after reviewing the photographs and facial features submitted he calculated the HLD to be 15 points which does not allow MassHealth to pay for the treatment. Moreover, the MassHealth representative stated that appellant is still developing teeth and appellant appears to have some crowding that perhaps may get worse as the teeth develop. The MassHealth representative suggested that appellant have her son reevaluated in six months' time.

## Findings of Fact

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

1. The appellant's provider submitted a Prior Authorization ("PA") request for comprehensive orthodontic treatment, including an x-ray and photographs, on March 17, 2021.

- a. MassHealth denied the prior authorization request.
2. The appellant filed this appeal in a timely manner on March 18, 2021.
3. MassHealth approves orthodontic treatment if the HLD score is greater than 22 points or if there is evidence of a 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.
4. Appellant's provider found an HLD score of 23 points, but no evidence of an autoqualifier.
5. Dr. Perlmutter and DentaQuest both found HLD scores of less than 22 points and no evidence of an autoqualifier.

## **Analysis and Conclusions of Law**

Regulation 130 CMR 420.431(E) contains the relevant MassHealth regulation which discusses how a MassHealth member (who, like the appellant, is under 21 years of age at the time of the PA request) may receive approval on a PA request for comprehensive orthodontic treatment. The regulation reads, in 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.

Appendix D of the Dental Manual is the "MassHealth Handicapping Labio-Lingual Deviations Index," 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 PA request, without regard for the HLD numerical score, if there is evidence of a 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. The provider did not note any auto qualifiers thus the analysis proceeds to the discrepancy in points in measuring the malocclusion.

Dr. Perlmutter found an HLD score of 15 points but felt that appellant's teeth were still shifting which could make the crowding worse. Thus, he recommended that appellant wait an additional six months and try again. Dr. Perlmutter's testimony is credible that appellant does not have a

severe and handicapping malocclusion at this time; therefore, MassHealth was correct in determining that appellant is ineligible for comprehensive orthodontic treatment at this time.

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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Radha Tilva  
Hearing Officer  
Board of Hearings

cc: DentaQuest