

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2154340

**Decision Date:** 9/14/2021

**Hearing Date:** 07/19/2021

**Hearing Officer:** Radha Tilva

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Carl Perlmutter, 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>	Prior Authorization - orthodontics
<b>Decision Date:</b>	9/14/2021	<b>Hearing Date:</b>	07/19/2021
<b>MassHealth's Rep.:</b>	Dr. Perlmutter	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Quincy Harbor South Tower		

## 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 May 26, 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 8, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## 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's is ineligible for comprehensive orthodontic treatment?

## Summary of Evidence

MassHealth was represented by an orthodontic consultant from DentaQuest, the third party that is responsible for administering the decision on behalf of MassHealth. Appellant was represented by his mother.

The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs and x-rays, on May 24, 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. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment. The provider's HLD Form indicates that he found a total score of 6, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
Overbite in mm	2	1	2
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 <sup>1</sup>	Maxilla: n/a Mandible: n/a	Flat score of 5 for each <sup>2</sup>	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>6</b>

(Exhibit 4, p. 9). The appellant's provider did not indicate that a medical necessity form would be included, but the record did include a letter from Dr. Arthur Blasberg, M.D., dated May 15, 2021 (Exhibit 4, p. 12). The letter stated that appellant has had multiple teeth removed and has been self-conscious about his smile since that time (*Id.*). He has also dealt with anxiety about this over this period (*Id.*).

When DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment and determined that the appellant has an HLD score of 11. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
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<sup>1</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>2</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Overjet in mm	2	1	2
Overbite in mm	2	1	2
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: n/a Mandible: x	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	1	Flat score of 4	4
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	0	3	0
<b>Total HLD Score</b>			<b>11</b>

Because it found an HLD score below the threshold of 22, no autoqualifying conditions, and no medical necessity, MassHealth denied the appellant's prior authorization request on May 26, 2021.

At hearing, Dr. Perlmutter explained that MassHealth only pays for braces if there is a physical handicap and in those situations they consider bite to be so handicapping that they cannot chew their food appropriately. He further stated that approval has to do with how teeth work and little to do with how they look. Dr. Perlmutter explained that points are given for various conditions observed in the bite and that appellant must meet 22 points to reach a physical handicap. Dr. Perlmutter completed an HLD form based on a careful review of the x-rays and photographs also gave 11 points. Dr. Perlmutter stated that the letter from Dr. Blasberg did not sufficiently explain the correlation between appellant's teeth and his anxiety. Dr. Perlmutter felt that appellant's teeth looked great from the pictures and photographs.

Appellant's mother testified that she understood the point scale and Dr. Perlmutter's testimony. The mother explained that her son has had a lot of dental work done since he was 4 years old and has had multiple teeth pulled and many spacers put in which has resulted in his jaw coming in differently. The appellant's mother also testified that her son has anxiety as a result of the appearance of his teeth and is very self-conscious about it. The appellant's mother stated that her son has not yet seen a therapist, but is looking into it for him.

## Findings of Fact

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

1. On May 24, 2021, the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, including photographs, x-rays, and a medical necessity narrative (Exhibit 4).
2. MassHealth denied the request on May 26, 2021 and the appellant appealed the denial on June 8, 2021.
3. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and calculated an overall score of 6 and did not find evidence of any autoqualifying conditions.
4. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or when one of the conditions that warrant automatic approval of comprehensive orthodontic treatment is present.
6. DentaQuest determined that appellant had an HLD score of 11 and denied the request on May 26, 2021.
7. At hearing on July 19, 2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays and found an HLD score of 11.
8. The MassHealth orthodontic consultant considered the narrative from the appellant's pediatrician, but determined it did not sufficiently justify the medical necessity of comprehensive orthodontic treatment.
9. The appellant's physician states that appellant is self-conscious of his smile and has dealt with anxiety (Exhibit 4, p. 12).

## **Analysis and Conclusions of Law**

Federal law requires that Medicaid agencies provide “[d]ental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health” (42 CFR § 441.58; see also 42 U.S.C. § 1396d(r)(3)(B)). Orthodontic services are generally described as “discretionary,” under federal law (See 42 CFR § 441.57). MassHealth has chosen to provide orthodontic services when it determines them to be medically necessary (130 CMR 420.431). 130 CMR 420.431 states, in relevant part, as follows:

(A) General Conditions. The MassHealth agency pays for orthodontic treatment, subject to prior authorization, service descriptions and limitations as described in 130 CMR 420.431. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the members 21<sup>st</sup> birthday.

(B) Definitions.

...

(3) Comprehensive Orthodontic Treatment. Comprehensive orthodontic treatment includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development. Comprehensive orthodontic treatment includes the transitional and adult dentition.

(C) Service Limitations and Requirements.

...

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime younger than 21 years old and ***only when the member has a handicapping malocclusion. The MassHealth agency determines whether a malocclusion is handicapping based on clinical standards for medical necessity as described in Appendix D of the Dental Manual.*** Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure.

Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age.

(Emphasis added).

Appendix D of the Dental Manual is the “Handicapping Labio-Lingual Deviations Form” (HLD), which is described as a quantitative, objective method for evaluating prior authorization requests for comprehensive orthodontic treatment. 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. A score of 22 or higher signifies a handicapping malocclusion. MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence of one of the following autoqualifiers: 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.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;
- ii. ***a diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion;***
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient’s malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient’s malocclusion; or
- v. a condition in which the overall severity or impact of the patient’s malocclusion is not otherwise apparent.

***The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient.*** If any part of the requesting provider’s justification of medical necessity involves a mental, emotional, or behavioral condition...that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must

- i. clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g. general dentist, oral surgeon, physician, clinical psychologist, clinical dietician, speech therapist);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient’s condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);

- v. discuss any treatments for the patient's condition (other than the comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

(see Exhibit 4, p. 10).

It is undisputed that appellant does not have greater than 22 points on the HLD score. The appellant's mother contends, however, that appellant meets the criteria for medical necessity because he has a diagnosed mental condition caused by his malocclusion. Appellant's treating provider failed to check off that a medical necessity narrative was being submitted (Exhibit 4, p. 10). The letter from Dr. Blasberg discusses that appellant deals with anxiety and is self-conscious about his smile, however, fails to discuss any treatments for the condition (other than braces) which has been considered or attempted by the clinician which is a requirement under subsection v above. For this reason the medical necessity criteria has not been met and 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