

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2154919
<b>Decision Date:</b>	9/24/2021	<b>Hearing Date:</b>	08/11/2021
<b>Hearing Officer:</b>	Rebecca Brochstein		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Dr. David Cabeceiras, Orthodontic Consultant



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Approval for Orthodonture
<b>Decision Date:</b>	9/24/2021	<b>Hearing Date:</b>	08/11/2021
<b>MassHealth Rep.:</b>	Dr. David Cabeceiras	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated June 13, 2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on June 28, 2021 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (130 CMR 610.032).

### 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(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

MassHealth was represented at hearing by Dr. David Cabeceiras, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on June 10, 2021. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.<sup>1</sup> The provider's HLD Form indicates a total score of 26, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	7	1	7
Overbite in mm	9	1	9
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>2</sup>	Maxilla: No Mandible: No	Flat score of 5 for each <sup>3</sup>	0
Labio-Lingual Spread, in mm (anterior spacing)	10	1	10
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>26</b>

As part of the HLD calculation, the provider also indicated that the appellant has a deep impinging overbite, which is a condition that would automatically qualify him for approval. See Exhibit 4.

Dr. Perlmutter testified that when DentaQuest initially 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:

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<sup>1</sup> The form also includes space for providers to indicate whether, regardless of score, a patient has one of the seven conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case alleged that the appellant has an auto-qualifying condition.

<sup>2</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>3</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
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: No Mandible: No	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>12</b>

Because it found an HLD score below the threshold of 22 – and did not agree that the appellant had a deep impinging overbite – MassHealth denied the appellant’s prior authorization request on June 14, 2021. See Exhibit 1.

In preparation for hearing on August 11, 2021, Dr. Cabeceiras completed an HLD Form based on a review of the records. He determined that the appellant’s overall HLD score was 12, which is the same score as the original DentaQuest orthodontist found. He testified that the appellant’s teeth are “pretty straight” and do not have any significant crowding. He also stated that the appellant does not have a deep bite at all, as his lower teeth are visible in the pictures, and that there is no evidence of tissue damage in the upper palate. He stated that because the appellant’s HLD score is below the threshold of 22 and there is no deep impinging overbite, he could not reverse the denial of the prior authorization request.

The appellant’s father appeared telephonically and testified on his son’s behalf. He testified that the appellant chews “irregularly” and cannot chew “strong” foods, but only soft foods. He denied that the appellant has pain, but rather that he does not chew normally. He testified that the appellant’s provider is the best, stating that he has seen her diplomas, and that she knows the appellant has a problem and can explain it better than he is able to. He complained that orthodontists will treat rich people if they can pay for treatment but not those on MassHealth.

### Findings of Fact

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

1. On June 10, 2021, the appellant’s orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.

2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 26.
3. The provider also alleged that the appellant has a deep impinging overbite, which, if verified, would result in automatic approval.
4. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 12. It did not find a deep impinging overbite.
5. On June 14, 2021, MassHealth notified the appellant that the prior authorization request had been denied.
6. On June 28, 2021, the appellant filed a timely appeal of the denial.
7. In preparation for hearing on August 11, 2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, finding an HLD score of 12. He found no deep impinging overbite.
8. The appellant's HLD score is below the threshold score of 22.
9. There are no ulcerations or tissue tears in the palate behind the upper front teeth to indicate a deep impinging overbite.
10. The appellant does not have any of the other conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm).
11. The appellant has not established that the service is otherwise medically necessary based on a severe deviation affecting the patient's mouth and/or underlying dentofacial structures; a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion; a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion; a diagnosed speech or language pathology caused by the patient's malocclusion; or a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

### **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 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*.

Appendix D of the Dental Manual is the “MassHealth Handicapping Labio-Lingual Deviations Index” (HLD), which is described as a quantitative, objective method for measuring PA requests for comprehensive orthodontic treatment. The HLD allows for the identification of certain auto-qualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. MassHealth has determined that 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, in two other circumstances: First, MassHealth will approve a request if there is evidence of one or more auto-qualifying conditions: a cleft palate, severe maxillary anterior crowding, deep impinging overbite, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm. Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion;
- A diagnosed speech or language pathology caused by the patient’s malocclusion;
- or
- 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; a nutritional deficiency; a speech or language pathology; or the presence of any other 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:

- 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 dietitian, speech therapist);

- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider found an overall HLD score of 26, and also alleged that he had a condition (deep impinging overbite) that would result in automatic approval regardless of the score. After reviewing the documents included with the provider's submission, MassHealth calculated a score of 12 and found he did not have a deep impinging overbite. Upon review of the prior authorization documents, a different orthodontic consultant for MassHealth found the HLD score was 12, also finding that he did not have a deep impinging overbite.

After reviewing the prior authorization documents, I am persuaded by MassHealth's determination that the HLD score is below 22. The difference in the scoring is in the magnitude of the overjet (the provider's score of 7 vs. MassHealth's score of 3), the overbite (9 vs. 5), and the labio-lingual spread (10 vs. 4). In all three areas, the measurements of the MassHealth orthodontists are much more aligned with what is evident in the photographs. With the more credible MassHealth scores taken into account the total HLD score is well below the threshold of 22.

The record also supports MassHealth's determination that the appellant does not automatically qualify for treatment based on a deep impinging overbite, as the photographs do not show any lacerations or other pathological changes to the gum tissue behind the upper front teeth. There is also no evidence that he has any of the other conditions that result in automatic approval without regard for the HLD numerical score (i.e., cleft palate, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than 9 mm, or reverse overjet greater than 3.5 mm.). Further, the provider did not allege, nor did MassHealth find, that treatment is otherwise medically necessary as set forth in Appendix D of the Dental Manual. As such, the appellant has not demonstrated that he meets the MassHealth criteria for approval of comprehensive orthodontic treatment. MassHealth's denial of the prior authorization request was proper.

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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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: DentaQuest