

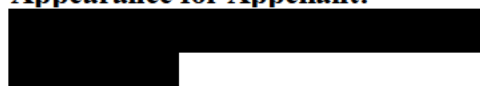
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2155086
<b>Decision Date:</b>	9/20/2021	<b>Hearing Date:</b>	08/11/2021
<b>Hearing Officer:</b>	Christopher Taffe	<b>Record Open to:</b>	08/26/2021

**Appearance for Appellant:**



**Appearance for MassHealth:**

David Cabeceiras, DMD,  
Consultant from DentaQuest (by telephone)



*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 – Dental – Orthodontics
<b>Decision Date:</b>	9/20/2021	<b>Hearing Date:</b>	08/11/2021
<b>MassHealth's Rep.:</b>	D. Cabaceiras, DMD	<b>Appellant's Rep.:</b>	Mother, pro se
<b>Hearing Location:</b>	HarborSouth Tower, Quincy		

## 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 on or around June 23, 2021, MassHealth denied Appellant's request for prior authorization of comprehensive orthodontic treatment. See 130 CMR 420.431 and Exhibit 1. Appellant filed a timely appeal of this matter on June 29, 2021. See 130 CMR 610.015(B) and Exhibit 1. Challenging a MassHealth denial of a request for prior authorization is a valid basis for appeal to the Board of Hearings. See 130 CMR 610.032

## Action Taken by MassHealth

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

## Issue

Whether Appellant is eligible for the approval of the requested orthodontic treatment?

## Summary of Evidence

Appellant is currently a [REDACTED] MassHealth member who was represented at hearing by his mother. MassHealth was represented at hearing by Dr. Cabeceiras, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer and run the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Cabeceiras testified that the MassHealth insurance generally only covers requests for full orthodontics when the bad bite or malocclusion meets a certain standard. MassHealth testified that, in typical cases, the appellant's dental provider will submit a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, which MassHealth will then review to see if the bite meets that high standard. Essentially MassHealth requires either (1) a score of 22 points on the Handicapping Labio-Lingual Deviations (HLD) card; or (2) examples of a deviation that is an auto-qualifier (including but not limited to conditions like the presence of a cleft palate or impacted anterior teeth).

In this case, the record shows that, on or around June 10, 2021, the Appellant's orthodontist, Dr. Lakshmi Thalanki of North Cambridge, submitted x-rays and photographs which were identified with Appellant's name in Exhibit 3. However, Dr. Thalanki did not submit a copy of the patient-specific Prior Authorization paper narrative for this Appellant; instead the papers generally described as the narrative papers, were for another unrelated patient. See Exhibit 3. The issue was discovered during the initial part of hearing and Appellant's mother was offered a chance to reschedule to allow for the record to be corrected and more appropriate. After such preliminary discussion, the parties and Hearing Officer decided to proceed with the substantive appeal based on the evidence available on the hearing date. The Hearing Officer received consent from the Appellant's mother to allow him time to follow-up post-hearing with the DentaQuest administration to see whether (1) DentaQuest had the paperwork and it was DentaQuest's error in creating the packet in Exhibit 3; or (2) the Appellant's provider submitted only partial papers to DentaQuest, which DentaQuest in turn submitted as part of the appeal record.<sup>1</sup> The Hearing Officer indicated that he would also, as necessary, follow-up with Appellant's mother if that research produced something substantively important or which could be addressed by Appellant.

[Post-hearing, the DentaQuest Appeals Coordinator (Mr. G. Romero or "GR") responded to the inquiries of the Hearing Officer on August 26, 2021 and August 27, 2021; such inquiries and responses have been marked as Exhibit 4. On August 26, 2021, GR wrote that he had received the initial follow-up inquiry from the Board of Hearings from August 12<sup>th</sup> and stated Dr. Lakshmi had not submitted the written paperwork for Appellant, that he had reached out several times to ask Dr. Lakshmi's office to submit it, and then he would make another inquiry. On August 27, 2021, GR stated that he spoke with the provider's office and that they had verified

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<sup>1</sup> As described *infra*, this second scenario is what happened. It is unclear why the MassHealth agency decided to issue a substantive denial notice instead of denying the request on a more procedural basis, namely the failure of the treating orthodontist to submit a complete prior authorization request for this Appellant with all of the appropriate records for this Appellant, and only those records belonging to this Appellant.

that the photos and x-ray were for Appellant, and that a mistake occurred with the written paperwork due to the provider's office being "*very busy*". See Exhibit 4.]

At hearing, based on the limited information available to him, the MassHealth Representative stated that MassHealth reviewed the x-ray and photographs and found total discrepancies leading to an HLD score of 13. Based on the photos and x-rays he could see, he agreed that the score of 13 was appropriate and close to what he would have. Dr. Cabaceiras stated that there was definitely some overbite and overjet, and DentaQuest had given some point (5 total) for both of those, as well as some additional points for anterior upper crowding.

Appellant's mother stated that the child definitely needs braces and has been told that for a long time by dentists, and she has had retainers in the past as part of pre-orthodontic treatment. The Appellant has crooked teeth, most notably in the upper front with the upper central incisors as buck teeth that stick out. Appellant's mother stated that Appellant had no father and the family could not afford braces. Appellant's mother also testified that she thought the score from the submitting provider was in the neighborhood of 20 to 22 points, or "right on the line" of where she needed for qualification.

## Findings of Fact

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

1. Appellant is currently at [REDACTED] MassHealth member whose provider requested prior authorization for comprehensive orthodontic treatment. (Testimony and Exhibit 3)
2. In measuring the scope of Appellant's current malocclusion, Appellant does not have the necessary HLD score of 22 or more points to qualify for approval of the treatment. (Testimony and Exhibits 3 and 4)
  - a. Appellant's provider submitted partial paperwork for the Appellant as part of the prior authorization request. As a result, Appellant's HLD scoresheet from her provider was not included. Appellant's mother testified that she believed she was told that the score was in the 20 to 22 point range. (Testimony and Exhibits 3 and 4)
  - b. In making the initial denial, MassHealth found an HLD score of 13 for the Appellant, and the MassHealth consulting orthodontist at hearing testified that his score would be similar to this MassHealth score and not close to 22 points. (Testimony and Exhibit 3).
3. There is no evidence in the photos suggesting that Appellant had any of the auto-qualifying conditions needed to serve as an alternative basis to support the request for full orthodontic treatment. (Testimony and Exhibit 3)

## Analysis and Conclusions of Law

As a general rule, the MassHealth agency and its dental program pays only for medically necessary services to eligible MassHealth members and may require that such medical necessity be established through a prior authorization process. See 130 CMR 450.204; 130 CMR 420.410. In addition to complying with the prior authorization requirements at 130 CMR 420.410 et seq.,<sup>2</sup> covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 420.421 through 420.456. See 130 CMR 420.421 (A) through (C).

130 CMR 420.431 contains the description and limitation for orthodontic services. That regulation reads in relevant part as follows as to comprehensive orthodontic requests:

420.431: Service Descriptions and Limitations: Orthodontic Services

(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. ...*

(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.** ...*  
(**Bolded** emphasis added.)

Appendix D of the Dental Manual contains the current HLD Authorization Form found in Exhibit 3. As indicated by the paper record, the MassHealth testimony, and the relevant regulations, appendices, and manuals (including the HLD Authorization form), MassHealth approves comprehensive orthodontic treatment only when the member meets one of the three following requirements:

- (1) the member has an “auto qualifying” condition as described by MassHealth in the HLD Index;
- (2) the member meets or exceeds the threshold score (currently 22 points) listed by MassHealth on the HLD Index; or
- (3) comprehensive orthodontic treatment is medically necessary for the member, as demonstrated by a medical necessity narrative letter and supporting documentation submitted by the requesting provider. Usually this involves a severe medical condition that can include atypical or underlining health concerns which may be either dental or non-dental.

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<sup>2</sup> 130 CMR 420.410(C) also references and incorporates the MassHealth Dental Program Office Reference Manual publication as a source of additional explanatory guidance beyond the regulations. It is also noted that references in the regulations to the “*Dental Manual*” mean the state regulations and the administrative and billing instructions, and service codes found in related subchapters and appendices. See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on September 17, 2021).

Appellant's submitting dentist did not include paperwork that may have possibly indicated whether an automatic qualifying condition. Regardless, there is no evidence however in the photographs that Appellant has any of the seven severe conditions.<sup>3</sup>

With no further information, there is a need to review the HLD scores to see if Appellant's bad bite or malocclusion is severe enough to qualify as a handicapping malocclusion. The MassHealth standard requires a current score of 22 on the HLD index. In this case, MassHealth's records show a score of 13 and the dentist available at hearing took a second look at the photographs and indicated that scoring was accurate. Dr. Cabaceiras acknowledged the upper anterior crowding issues, as well as the overjet and overbite issues in attempting to explain the score at hearing. As discussed, there is no evidence from the Appellant's provider as to what score and whether it was even 22 points; Appellant's mother's testimony suggested that was somewhere in the 20 to 22 point range. However, without a proper prior authorization submission, it is impossible to do a substantive comparison at this appeal and see what the basis for a finding of 22 points could be, and whether that finding can counter the MassHealth documentation of 13 HLD points established in the record.

Appellant's arguments about the child's prior dental treatment and current condition of the bite, while noted, unfortunately cannot alone serve as a separate basis for approval. It is true that Appellant could likely benefit from braces and have improved teeth as a result of orthodontics. That said, not every MassHealth member with a bad bite can get braces; the regulation limits it to those with the most severe and problematic malocclusions only, and there is no evidence to suggest Appellant's specific bite has enough notable issues to fall into that severe portion of the population for which MassHealth will cover the treatment.

So long as she retains her current MassHealth benefits, Appellant has the right to be re-examined every six months and to resubmit a new prior authorization request to see if the malocclusion worsens. If Appellant and her provider choose this option, the Appellant is encouraged to ask the provider to do a full and more complete submission.

For the above reasons, I conclude that there is no basis to rescind or overrule the MassHealth decision in the current request. This appeal is DENIED.

## **Order for MassHealth**

None.

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<sup>3</sup> The conditions are: (1) Cleft Palate Deformity or Cranio-Facial Anomaly; (2) Severe Maxillary Anterior Crowding greater than 8 mm; (3) a Deep Impinging Overbite; (4) a Reverse Overjet greater than 3.5 mm; (5) Severe Traumatic Deviations (such as Facial Accidents); (6) Impacted Permanent Anterior teeth; and (7) an Overjet of more than 9mm. See Exhibit 3.

## **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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Christopher Taffe  
Hearing Officer  
Board of Hearings

cc: DentaQuest