

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2155775
<b>Decision Date:</b>	9/17/2021	<b>Hearing Date:</b>	09/13/2021
<b>Hearing Officer:</b>	Alexandra Shube		

**Appearance for Appellant:**  
*Via telephone:*



**Appearance for MassHealth:**  
*Via telephone:*  
Dr. Harold Kaplan



*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>	Orthodontics – Prior Authorization
<b>Decision Date:</b>	9/17/2021	<b>Hearing Date:</b>	09/13/2021
<b>MassHealth’s Rep.:</b>	Dr. Harold Kaplan	<b>Appellant’s Rep.:</b>	██████
<b>Hearing Location:</b>	Quincy Harbor 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 June 15, 2021, MassHealth denied the appellant’s request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). The appellant filed this appeal in a timely manner on July 28, 2021 (see 130 CMR 610.015(B) and Exhibit 2)<sup>1</sup>. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

## Action Taken by MassHealth

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

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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.

## 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 June 12, 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 indicated that he found an autoqualifier of "deep impinging overbite with severe soft tissue damage (e.g., ulcerations or tissue tears – more than indentations)." The provider did not otherwise score the HLD Form.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant did not have a deep impinging overbite. DentaQuest found an HLD score of 11. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
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 <sup>2</sup>	Maxilla: n/a Mandible: n/a	Flat score of 5 for each <sup>3</sup>	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0

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<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.

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 and no autoqualifier, MassHealth denied the appellant's prior authorization request on June 15, 2021.

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 19. He also did not see any evidence of a deep impinging overbite. Dr. Kaplan explained that a deep impinging overbite is characterized by soft tissue damage such as ulcerations, cuts, and tissue tears to the upper palatal tissue. He testified that there is no evidence of soft tissue damage to the roof of the appellant's mouth. Dr. Kaplan's HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
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: n/a Mandible: x	Flat score of 5 for each	5
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)	0	3	0
<b>Total HLD Score</b>			<b>19</b>

The appellant's mother testified that some of the appellant's teeth are chipping and she believes it is from the way they are aligned.

Dr. Kaplan responded that teeth alignment would not have anything to do with his teeth chipping and orthodontic treatment would not fix that problem. He advised the appellant that he may be re-examined every six months and has until the age of 21 to be treated. Because the appellant's HLD score is below 22 and there are no autoqualifiers, the appellant does not have a severe and handicapping malocclusion and MassHealth will not pay for comprehensive orthodontic treatment. Dr. Kaplan explained that while the appellant's bite would be improved with braces, it is not severe enough for MassHealth to pay for it.

## Findings of Fact

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

1. On June 12, 2021, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth (Exhibit 4).
2. The provider completed a Handicapping Labio-Lingual Deviations Form for the appellant and indicated that he found an autoqualifier of "deep impinging overbite with severe soft tissue damage (e.g., ulcerations or tissue tears – more than indentations)." He did not calculate an HLD score. (Exhibit 4).
3. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant did not have a deep impinging overbite and calculated an HLD score of 11 (Exhibit 4).
4. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or has one of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Testimony).
5. On June 15, 2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibit 4).
6. On July 28, 2021, the appellant filed a timely appeal of the denial (Exhibit 2).
7. At hearing on September 13, 2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays (Testimony).
8. Based on the photographs and x-rays, the MassHealth orthodontic consultant found that the appellant did not have a deep impinging overbite. He calculated an HLD score of 19. (Testimony).
9. With a deep impinging overbite, the lower front teeth dig into the upper palatal tissue causing cuts, ulcerations, or tissue tears. There are no cuts, ulcerations, or tissue tears on the appellant's upper palatal tissue. (Testimony and Exhibit 4).
10. The appellant's HLD score is below 22.

## **Analysis and Conclusions of Law**

130 CMR 420.431(E) 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 did not calculate an HLD score, but found the autoqualifier of a deep impinging overbite. After reviewing the provider’s submission, MassHealth found an HLD score of 11 and no autoqualifiers. At hearing, based on the x-rays and photographs from the provider’s submission, Dr. Kaplan found an HLD score of 19 and no autoqualifiers.

Both Dr. Kaplan and DentaQuest determined that the appellant did not have a deep impinging overbite or any other autoqualifier. The photographs and x-rays show that there is no evidence of soft tissue damage. Dr. Kaplan’s measurements and testimony are credible and his determination of the overall HLD score is consistent with the evidence.

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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Alexandra Shube  
Hearing Officer  
Board of Hearings

cc: DentaQuest 1, MA