

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2175924
<b>Decision Date:</b>	9/22/2021	<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>	9/22/2021	<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 April 29, 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 August 4, 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 father 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 April 27, 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 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 22, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
Overbite in mm	1	1	1
Mandibular Protrusion in mm	2	5	10
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: x <sup>3</sup>	Flat score of 5 for each <sup>4</sup>	5
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
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>22</b>

<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 appellant's provider did not specify whether there was anterior crowding of the maxilla or mandible. For scoring purposes, the mandible has been checked off here.

<sup>4</sup> The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 13. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	2	1	2
Mandibular Protrusion in mm	1	5	5
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: n/a	Flat score of 5 for each	0
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>13</b>

Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on April 29, 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 16. Dr. Kaplan's HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	2	1	2
Mandibular Protrusion in mm	1	5	5
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: n/a Mandible: n/a	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
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>16</b>

Dr. Kaplan testified that the main difference between the appellant's provider's score and his is the scoring of the mandibular protrusion. He explained that the mandibular protrusion is measured by the upper molar in relationship to the lower molar. In the appellant, the upper molar is only slightly behind the lower molar, which he measured at 1mm, for 5 points. Additionally, the appellant's provider scored 5 points for anterior crowding. To qualify for anterior crowding, the arch length insufficiency must exceed 3.5 mm. Dr. Kaplan did not see enough crowding in either the lower or upper arch to qualify for anterior crowding.

The appellant's father testified that this is his third appeal for his daughter. She needs braces according to her orthodontist and is entitled to a nice smile. It is not just for vanity, but for her self-confidence and to ensure that she can eat properly. His other daughter was approved for orthodontic treatment through MassHealth.

Dr. Kaplan advised the appellant that she may be re-examined every six months and has until the age of 21 to be treated. He stated that the x-rays and photographs submitted are old, dated January 25, 2021. It is possible there could be some changes in the future, including more anterior crowding, but he would need to see updated x-rays and photographs to know.

The father stated that his daughter's bite has changed since those x-rays because he had braces put on her and is paying for them out of pocket.

Dr. Kaplan responded that the treating orthodontist should not have started treatment without MassHealth approval.

## Findings of Fact

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

1. On April 27, 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 calculated an overall score of 22 (Exhibit 4).
3. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).

5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 13 (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
7. On April 29, 2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On August 4, 2021, the appellant filed a timely appeal of the denial (Exhibit 2).
9. At hearing on September 13, 2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays and found an HLD score of 16 (Testimony).
10. The appellant's HLD score is below 22.
11. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (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).

## **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 found an overall HLD score of 22. After reviewing the provider's submission, MassHealth found an HLD score of 13. Upon review of the prior authorization

documents, at hearing a different orthodontic consultant found an HLD score of 16.

The main difference between the appellant's provider's score and that of Dr. Kaplan's is the measurement of the mandibular protrusion. Additionally, the appellant's provider did not properly measure the amount of anterior crowding and incorrectly calculated the HLD score as a result. The mandibular protrusion is measured by the upper molar in relationship to the lower molar. In the appellant, the upper molar is only slightly behind the lower molar, which Dr. Kaplan measured at 1mm, for 5 points. The appellant's orthodontist gave her 5 points for anterior crowding and did not specify whether the crowding was in the mandibular or maxilla; however, to qualify for anterior crowding the arch length insufficiency must exceed 3.5 mm. Dr. Kaplan did not see at least 3.5mm of crowding in either the maxilla or the mandibular. Dr. Kaplan's measurements 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 she 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