

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** APPROVED

**Appeal Number:** 2176035

**Decision Date:** 10/19/2021

**Hearing Date:** 10/06/2021

**Hearing Officer:** Christopher Taffe

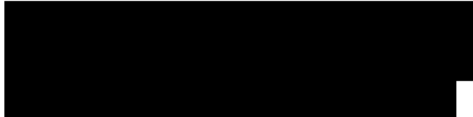
**Appearance for Appellant:**



**Appearance for MassHealth:**


Harold Kaplan, DMD, on behalf of  
DentaQuest (by phone)

**Interpreters:**



*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>	APPROVED	<b>Issue:</b>	PA – Dental – Orthodontics
<b>Decision Date:</b>	10/19/2021	<b>Hearing Date:</b>	10/06/2021
<b>MassHealth's Rep.:</b>	H. Kaplan, DMD	<b>Appellant's Rep.:</b>	
<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 June 15, 2021, MassHealth denied Appellant's request for prior authorization of full orthodontic treatment. See Exhibit 1; 130 CMR 420.431. A timely appeal was filed on Appellant's behalf with the Board of Hearings on August 16, 2021, but the filing did not contain a signature. See Exhibit 1; 130 CMR 610.015(B).<sup>1</sup> On August 19, 2021, the Board of Hearings dismissed this appeal without prejudice, stating that the appeal was unable to proceed without proper authority. See Exhibit 2; 130 CMR 610.034 and 130 CMR 610.035. Appellant timely vacated this dismissal by filing proper written authority on August 30, 2021. See Exhibit 3; 130 CMR 610.048.

Challenging a denial of a MassHealth of a request for assistance is a valid ground for appeal to the Board of Hearings. See 130 CMR 610.032.

Per 130 CMR 610.017, the Board of Hearings provided a Spanish-speaking interpreter by phone for the hearing per the Appellant's request.<sup>2</sup>

## Action Taken by MassHealth

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<sup>1</sup> The 30-day time period to appeal found in 130 CMR 610.015(B) has been extended to 120 days for the current duration of the federal state of emergency related to the COVID-19 pandemic. See MassHealth Eligibility Operations Memo 21-14 (dated September 2021).

<sup>2</sup> All parties appeared by phone and, due to a dropped call during the hearing, two different interpreters were ultimately used during testimony.

MassHealth denied Appellant's request for approval of the prior authorization request for braces or full and comprehensive orthodontic treatment.

## **Issue**

The appeal issue is whether MassHealth was correct in determining that Appellant's bite or malocclusion did not currently qualify for approval of comprehensive 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. Kaplan, an orthodontist and consultant from DentaQuest, the entity that has contracted with MassHealth agency to administer the agency's dental program for MassHealth members. All parties testified telephonically.

Dr. Kaplan testified that the MassHealth insurance does not cover orthodontics for every single child who is a MassHealth member with dental insurance. By law, the agency only covers requests and pays for treatment for full orthodontics when the bad bite or "malocclusion" meets a certain high standard. It is not enough to say that the Appellant has imperfect teeth or that Appellant's family has been told by a dentist that the patient would generally need or benefit from braces. Instead to obtain approval, the bite or condition of the teeth must have a high amount of dental problems so that the bite falls into the group of malocclusions with the most severe issues.

Appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs. As required, the Appellant's dental provider completed the Handicapping Labio-Lingual Deviations (HLD) form and arrived at a score of 25.

MassHealth testified that, on the HLD point scale, 22 points is generally needed for approval. However, Dr. Kaplan testified that, during the initial denial and review of the materials, DentaQuest found a HLD score of 17. Dr. Kaplan stated that he did his own second review for the hearing, and he found discrepancies with a HLD score of 19.

The HLD scoring from the three reviewing dentists are as follows:

<i>Condition observed</i>	<i>Rule to determine final score</i>	<i>Finding of Appellant's Provider</i>	<i>Final score of Appellant's Provider</i>	<i>Finding of first DQ reviewer</i>	<i>Final score of first DQ reviewer</i>	<i>Finding of Dr. Kaplan</i>	<i>Final score of Dr. Kaplan</i>
Overjet in millimeters (mm)	# mm x 1	4 mm	4	4 mm	4	4 mm	4
Overbite in mm	# mm x 1	4 mm	4	4 mm	4	4 mm	4
Mandibular Protrusion in mm	# mm x 5	0	0	0	0	0	0
Anterior Open Bite in mm	# mm x 4	0	0	0	0	0	0
# of teeth in Ectopic Eruption <sup>3</sup>	# of teeth x 3	0	0	0	0	0	0
Anterior Crowding of more than 3.5 mm in the upper (Maxilla) jaw or lower (Mandible) jaw?	<i>If present, give 5 points for each jaw</i>	One jaw	5	Neither jaw	0	One jaw	5
Labio-Lingual Spread ("Anterior Spacing") in mm	# mm x 1	6 mm	6	3 mm	3	3 mm	3
Posterior Unilateral Crossbite	<i>If present, give 4 points</i>	No	0	No	0	No	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 <sup>rd</sup> molars)	# of teeth x 3	2 teeth	6	2 teeth	6	1 tooth	3
<b>TOTAL HLD SCORE</b>	-----	n/a	<b>25</b>	n/a	<b>17</b>	n/a	<b>19</b>

## Findings of Fact

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

- Appellant is currently a [REDACTED] MassHealth member who had a request for full or comprehensive braces denied by MassHealth. (Testimony and Exhibit 5)
- A HLD score of 22 points is generally needed for approval.
  - Appellant's orthodontic provider submitted the request with a HLD score of 25 points.
  - DentaQuest, during the initial review leading to the denial notice, found an HLD score of 17 points.
  - At hearing, the MassHealth/DentaQuest representative testified that he found an HLD score of 19 points. (Testimony and Exhibit 5)
- All three of the dentists agree that there should be at least 11 points for the issues of overjet, overbite, and labio-lingual spread. (Testimony and Exhibit 5)
- Two of the three reviewing orthodontists, including the Appellant's own provider, indicated that there was anterior crowding in one of the arches, and this should result in 5 points on the

<sup>3</sup> The HLD Form instructs the user to record the more serious condition (i.e., higher score) of either the ectopic eruption or the anterior crowding, but not to count both scores.

HLD scale. (Testimony and Exhibit 5)

5. Two of the three reviewing orthodontists, including the Appellant's own provider, indicated that there were two posterior impactions or congenitally missing teeth, and this should result in 6 points on the HLD scale. (Exhibit 5)

## Analysis and Conclusions of Law

As a 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>4</sup> covered services for certain dental treatments, including orthodontia, are subject to the relevant limitations of 130 CMR 42.421 through 420.456. See 130 CMR 420.421 (A) through (C).

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

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),

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<sup>4</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 noted that references in the regulations to the "*Dental Manual*" include the pertinent state regulations, the administrative and billing instructions (including the HLD form), and service codes found in related subchapters and appendices.

See <https://www.mass.gov/lists/dental-manual-for-masshealth-providers> (last viewed on October 13, 2021).

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.

In this case, Appellant’s dentist did not indicate the presence of an automatic qualifier condition, nor did the orthodontist submit an appropriate and separate set of medical necessity letters and documentation to justify the need for the request for braces.

That leaves only 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.

In this close case, I find the evidence and specific scoring suggests a finding of at least 22 points. As confirmed in the chart above and Exhibit 5, Dr. Kaplan’s score of 19 differs from the 25 point score of Appellant’s orthodontic provider in only two areas – (1) labio-lingual spread and (2) posterior impactions. Each of these two areas involves a difference of 3 points; if either dispute is resolved in Appellant’s favor, that would raise Dr. Kaplan’s score to the 22 points needed to qualify for approval.

As to the factual question of how many impacted or congenitally missing posterior teeth exist, Appellant’s own provider, who has seen the Appellant in person and who took the x-rays found that there were two such teeth. Dr. Kaplan found only one such tooth based on his review of the x-ray on paper. In resolving this discrepancy, it is noted that the other, initial DentaQuest reviewer agreed with Appellant’s provider that the number of missing/impacted posterior teeth was two. For these reasons, I credit the treating provider’s scoring on this issue and find the decision to award six points for this condition to be supported by the record. If Dr. Kaplan had scored six points for this issue instead of three, his score would rise to the 22-point level. For those reasons, I conclude that Appellant has met the high standard set by MassHealth for a qualifying malocclusion, and this request should be granted.

Accordingly, this appeal and request for comprehensive orthodontic treatment is APPROVED.

## **Order for MassHealth**

DentaQuest and/or the agency must, no later than 30 days of the date of this decision, send notice of approval to both Appellant’s family and the provider who submitted this prior authorization request.

## Implementation of this Decision

If this decision is not implemented within 30 days after the date of this decision, you should contact MassHealth Dental Customer Service at 1-800-207-5019. If you experience problems with the implementation of this decision, you should report this in writing to the Director of the Board of Hearings at the address on the first page of this decision.

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Christopher Taffe  
Hearing Officer  
Board of Hearings

cc: DentaQuest