

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                |                       |            |
|-------------------------|----------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied         | <b>Appeal Number:</b> | 2176532    |
| <b>Decision Date:</b>   | 10/20/2021     | <b>Hearing Date:</b>  | 10/04/2021 |
| <b>Hearing Officer:</b> | Marc Tonaszuck |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**  
Dr. Harold Kaplan, DentaQuest



*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 |
| <b>Decision Date:</b>     | 10/20/2021                       | <b>Hearing Date:</b>     | 10/04/2021   |
| <b>MassHealth's Rep.:</b> | Dr. Harold Kaplan,<br>DentaQuest | <b>Appellant's Rep.:</b> | ██████████   |
| <b>Hearing Location:</b>  | Quincy Harbor<br>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 08/09/2021, 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 08/17/2021 (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 08/05/2021. 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 the providing orthodontist found a total score of 27, broken down as follows:

| When | Conditions Observed   | Raw Score                 | Multiplier                            | Weighted Score |
|------|---|---------------------------|---------------------------------------|----------------|
|      | Overjet in mm   | 4                         | 1                                     | 4              |
|      | Overbite in mm  | 3                         | 1                                     | 3              |
|      | Mandibular Protrusion in mm   | 0                         | 5                                     | 0              |
|      | Open Bite in mm   | 1                         | 4                                     | 4              |
|      | Ectopic Eruption (# of teeth, excluding third molars)   | 2                         | 3                                     | 6              |
|      | Anterior Crowding <sup>2</sup>  | Maxilla: 5<br>Mandible: 5 | Flat score of 5 for each <sup>3</sup> | 10             |
|      | Labio-Lingual Spread, in mm (anterior spacing)  | 0                         | 1                                     | 0              |
|      | 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>27</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 HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18. 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   | 0                         | 5                        | 0              |
| Open Bite in mm   | 0                         | 4                        | 0              |
| Ectopic Eruption (# of teeth, excluding third molars)   | 0                         | 3                        | 0              |
| Anterior Crowding   | Maxilla: 5<br>Mandible: 5 | Flat score of 5 for each | 10             |
| 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>18</b>      |

Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 08/05/2021.

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 15. 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  | 4                         | 1                        | 4              |
| 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: 5<br>Mandible: 5 | Flat score of 5 for each | 10             |
| 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>20</b> |

Dr. Kaplan testified that the main differences between the appellant's provider's score and his is the scoring of the anterior crowding, ectopic eruption and the anterior open bite. He explained that the scoring instructions do not allow duplicate scoring of anterior crowding and an ectopic eruption. In this case, the appellant has crowding on both arches, so the ectopic eruption cannot be scored. Also, the open bite can only be scored in the anterior (front teeth). In the appellant's case, his provider scored teeth that are not anterior teeth. As a result, the appellant cannot have HLD points for an ectopic eruption or an open bite. Dr. Kaplan concluded that without a score of at least 22, an auto-qualifier or other evidence of medical necessity, MassHealth cannot approve comprehensive orthodontic treatment in this case.

The appellant's mother testified the appellant has "severe crowding, his canines are growing on top of his incisors and he is in pain." She asked for help for the appellant.

## Findings of Fact

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

1. On 08/05/2021, 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 27 (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 18 (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the

member has an HLD score of 22 or more (Testimony).

7. On 08/09/2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On 08/17/2021, the appellant filed a timely appeal of the denial (Exhibit 2).
9. At hearing on 10/04/2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 20 (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(C) 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 27. After reviewing the provider's submission, MassHealth found an HLD score of 18. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 20.

The main difference between the appellant's provider's score and that of Dr. Kaplan's are the scoring of the anterior crowding, ectopic eruption, and open bite. The appellant's orthodontist gave the appellant 10 points for anterior crowding on both the mandibular and maxillary arches. The provider also scored 6 additional points for 2 instances of ectopic eruptions. MassHealth agreed with the HLD score for crowding; however, the scoring instructions explicitly state "do not score teeth in this category if they are scored under maxillary or mandibular crowding." MassHealth correctly reduced the appellant's HLD score by 6 to comply with the scoring instructions.

Finally, Dr. Kaplan testified that he could not give the appellant a score for an open bite. He testified that the open bite is scored only for anterior teeth. Dr. Kaplan testified that the appellant has spacing between the maxillary and mandibular arch, but that is not for anterior teeth. As a result, a score of zero for anterior open bite must be entered. Dr. Kaplan, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative.

The appellant's mother testified credibly that the appellant has painful crowding in his front teeth. MassHealth agreed and gave the appellant the maximum score (10 points) for anterior crowding on both arches. Other than that, the appellant's mother made no challenge to the scoring or measurements. Accordingly, MassHealth's testimony is given greater weight. 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA