

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2176596
<b>Decision Date:</b>	11/10/2021	<b>Hearing Date:</b>	10/13/2021
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**



**Appearance for MassHealth:**  
Dr. Carl Perlmutter, 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>	11/10/2021	<b>Hearing Date:</b>	10/13/2021
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter, DentaQuest	<b>Appellant's Rep.:</b>	██████████
<b>Hearing Location:</b>	Springfield MassHealth Enrollment Center		

## 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 07/27/2021, 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).

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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.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431(C), 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. Carl Perlmutter, 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 07/23/2021. 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 the appellant has an HLD score of 22, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	8	1	8
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: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	10	1	10
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>22</b>

The appellant's orthodontist did not identify any automatic qualifying condition, nor did he

include a medical necessity narrative.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 17. The DentaQuest HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	4	1	4
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: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
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>17</b>

DentaQuest did not find an automatic qualifying condition. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 07/27/2021.

At hearing, Dr. Perlmutter testified that the appellant has an HLD score of 20, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	6	1	6
Overbite in mm	4	1	4
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: 0 Mandible: 0	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	5	1	5

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>

He also testified that there are no other automatic qualifying conditions. He concluded that his measurements do not support an HLD score of 22. Therefore, MassHealth could not approve the appellant's request for comprehensive orthodontics.

The appellant's father testified that this is a political decision to deny the appellant's braces. The father stated he is not a dentist, but the appellant was treated at Tuft's Dental Clinic, where a professor and a student agreed that MassHealth should pay for the appellant's braces. The father understood that there are many aspects to this analysis, but he testified that if a doctor in a big hospital found medical necessity, then MassHealth should pay for the braces. His concerns are that the appellant is healthy and able to grow.

## Findings of Fact

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

1. On 07/23/2021, 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, calculated an HLD score of 22 points. He did not indicate that any automatic qualifying conditions exist (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 17, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
7. On 07/27/2021, 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 10/13/2021, 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 asserted that the appellant has an HLD score of 22. After reviewing the provider's submission, MassHealth found an HLD score of 16 and no automatic qualifying condition. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 20 and no automatic qualifying condition.

The main difference between the appellant's provider's score and that of Dr. Perlmutter's

are the scoring of the labio-lingual spread. The appellant's orthodontist checked off that the labio-lingual spread is 10 mm. of spacing between the front 12 teeth. Dr. Perlmutter testified that the appellant has no more than 5 mm. of spacing. His score is supported by the photographs. Dr. Perlmutter, 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 father testified credibly that the appellant would benefit from orthodonture; however, he was unable to show that the appellant met the requirements set out by MassHealth for approval for payment of the orthodonture. 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 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA