

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2176917
<b>Decision Date:</b>	11/24/2021	<b>Hearing Date:</b>	10/25/2021
<b>Hearing Officer:</b>	Paul C. Moore	<b>Record Closed:</b>	11/15/2021

**Appellant Representative:**




**MassHealth Representative:**

Harold Kaplan, D.M.D., DentaQuest (by telephone)



*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>	Prior Authorization, Comprehensive Orthodontic Treatment
<b>Decision Date:</b>	11/24/2021	<b>Hearing Date:</b>	10/25/2021
<b>MassHealth Rep.:</b>	Dr. Kaplan	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (remote)		

## 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 September 2, 2021, MassHealth denied the appellant's request for prior authorization (PA) for comprehensive orthodontic treatment because MassHealth determined that the appellant does not have a severe and handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage (130 CMR 420.431; Ex. 1). The appellant requested this appeal in a timely manner on September 8, 2021 (Ex. 2). A PA denial is valid grounds for appeal (130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that the appellant does not meet the MassHealth requirements for coverage of comprehensive orthodontic treatment.

## Summary of Evidence

The appellant is an [REDACTED] year-old MassHealth member who was represented at hearing by her mother, who testified telephonically. The MassHealth representative, an orthodontist consultant with DentaQuest (the contracted agent of MassHealth that makes the dental prior authorization determinations), testified by telephone that the appellant's orthodontist, Dr. Amitabha Lala, submitted a PA request for comprehensive orthodontic treatment for the appellant on or about August 2, 2021. Dr. Amitabha completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form, submitting these to DentaQuest, along with photographs of the appellant's mouth and two radiographs (Ex. 3).

On the HLD Form, the orthodontist indicates whether the child has a cleft palate, deep impinging overbite, anterior impactions, severe traumatic deviations, an overjet greater than 9 millimeters, a reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters (mm.), collectively referred to as "autoqualifiers" (Testimony).

If any autoqualifiers are present, the request for orthodontic treatment is approved. If no autoqualifiers are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread, and posterior unilateral crossbite and gives each measurement a value based on the calculation worksheet on the HLD Form. An HLD score of 22 or over constitutes a severe and handicapping malocclusion (Testimony).

In the appellant's case, Dr. Lala documented for the appellant that he measured an overjet of 3 mm. (worth three points on the HLD Form), an overbite of 2 mm. (worth two points on the HLD Form), crowding of the appellant's anterior teeth on an arch in an amount exceeding 3.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form).<sup>1</sup> Dr. Lala did not locate any autoqualifiers for treatment, and did not submit a medical necessity narrative with the PA request. The total score calculated by Dr. Lala for the appellant on the HLD Form was 13 points (Ex. 3).

The MassHealth representative testified that in order for MassHealth to cover orthodontic treatment, the member must have a severe, disfiguring and handicapping malocclusion. The MassHealth representative stated that an HLD score of 22 is the minimum score indicative of a severe, disfiguring and handicapping malocclusion, and this is noted on the HLD Form. He testified that based on his examination of the appellant's photos and radiographs, he measured an overjet of 3 mm. (worth three points on the HLD Form), an overbite of 2 mm. (worth two points on the HLD Form), a mandibular protrusion of 1 mm. (worth five points on the HLD Form), crowding of the appellant's anterior teeth on the mandible in excess of 3.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form). He located no autoqualifiers for comprehensive orthodontic treatment. The total HLD score calculated for the

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<sup>1</sup> Dr. Amitabha did not specify on which arch the appellant's anterior teeth were crowded in an amount exceeding 3.5 mm. (Ex. 3).

appellant by the MassHealth representative was 18 points (Testimony).

The appellant's mother testified by telephone, indicating that she submitted a request to [REDACTED] the appellant's primary health insurer, for approval of comprehensive orthodontic treatment for the appellant. She added that [REDACTED] sent a form to her indicating it would pay for a portion of the appellant's treatment. The appellant's mother asked if MassHealth will pay for the portion of treatment not covered by Aetna. The MassHealth representative testified that MassHealth covers the entire cost of comprehensive orthodontic treatment, but only if the appellant qualifies via a HLD score of 22 or higher, an autoqualifier, or medical necessity (Testimony).

The appellant's mother testified that the appellant has an Individualized Education Program (IEP) in school, and that her malocclusion negatively affects her speech. She works with a school speech pathologist. The MassHealth representative stated that if a letter from the appellant's speech pathologist attesting to her malocclusion and speech impediment can be submitted, MassHealth can revisit the decision to deny treatment, and possibly approve the appellant based on medical necessity (Testimony).

The MassHealth representative also testified that the appellant may be re-examined by Dr. Lala every six months, and MassHealth will pay for a new orthodontic examination. If Dr. Lala believes comprehensive orthodontic treatment for the appellant is necessary at the next appointment, he can resubmit the PA request to MassHealth for a new decision (Testimony).

The appellant's mother testified that if treatment is further delayed, the appellant's bite will only get worse.

At the close of the hearing, the hearing officer agreed to keep the record of this appeal open for three weeks, or until November 15, 2021, for the appellant's mother to submit a letter from the appellant's school speech pathologist, attesting to how the appellant's malocclusion led to her diagnosed speech or language pathology (Ex. 5). The hearing officer also agreed to afford the MassHealth representative an additional week beyond that date, or until November 22, 2021, to review the letter from the speech pathologist and revise MassHealth's decision to deny treatment, if appropriate (*Id.*).

On November 15, 2021, the hearing officer received via e-mail from Dr. Lala a supplemental submission, including a letter from the appellant's mother, an explanation of benefits from Aetna reflecting that it will pay \$1,500.00 toward the cost of the appellant's treatment, a letter from Dr. Lala, and a letter from the appellant's general dentist, Dr. Parent.<sup>2</sup> No letter from the appellant's speech pathologist was included (Ex. 6).

The hearing officer forwarded these submissions to the MassHealth representative via e-mail on November 15, 2021 for his review (Ex. 7).

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<sup>2</sup> The letter from the appellant's mother states in part: "I reached out to [the appellant's] speech/language pathologist at her school and she was unable to provide a separate letter, she explained that [the appellant's] IEP includes speech services this was the only thing she was able to provide. . . ." (Ex. 6A). However, no IEP was included.

On the same date, the MassHealth representative sent an e-mail communication to the hearing officer, stating as follows:

After reviewing [the appellant's] records no one attained the required 22 HLD points. DentaQuest, [the appellant's] orthodontist and myself all had scores below the required 22. No medical narrative from a speech therapist recommending orthodontic treatment has been presented. There is no question that [the appellant] would benefit from orthodontic treatment. It is just that her malocclusion does not meet the criteria of severity for MassHealth to pay for her orthodontic treatment. I therefore unfortunately must uphold the decision of denial.

(Ex. 8)

## **Findings of Fact**

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

1. The appellant is an [REDACTED] year-old MassHealth member (Ex. 3).
2. The appellant's orthodontist, Dr. Lala, submitted a PA request for comprehensive orthodontic treatment for the appellant in August, 2021 (Ex. 3).
3. Dr. Lala completed an Orthodontics Prior Authorization Form and a HLD Form, and submitted these along with photographs of the appellant's mouth and two radiographs to DentaQuest (Ex. 3).
4. Dr. Lala asserted on the HLD Form that the appellant has an overjet of 3 mm. (worth three points on the HLD Form), an overbite of 2 mm. (worth two points on the HLD Form), crowding of the appellant's anterior teeth on an arch in an amount exceeding 3.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form) (Ex. 3).
5. Dr. Lala calculated a score of 13 points for the appellant on the HLD Form (Ex. 3).
6. Dr. Lala did not submit a medical necessity narrative with his PA request (Ex. 3).
7. The MassHealth representative is an orthodontist who is licensed to practice dentistry in the Commonwealth of Massachusetts.
8. Based on his examination of the appellant's photos and radiographs, the MassHealth representative measured an overjet of 3 mm. (worth three points on the HLD Form), an overbite of 2 mm. (worth two points on the HLD Form), a mandibular protrusion of 1 mm.

(worth five points on the HLD Form), crowding of the appellant's anterior teeth on the mandible in excess of 3.5 mm. (worth five points on the HLD Form), and a labio-lingual spread of 3 mm. (worth three points on the HLD Form) (Testimony).

9. The MassHealth representative did not locate any autoqualifiers for treatment (Testimony).
10. Based on his examination of the appellant, the MassHealth representative calculated a total HLD score for the appellant of 18 points (Testimony).
11. The appellant has an IEP and works with a speech pathologist at her school (Testimony).
12. The hearing officer left the record of this appeal open for three weeks following the hearing for the appellant to submit a letter of medical necessity from the appellant's speech pathologist (Ex. 5).
13. No such letter was received.

## **Analysis and Conclusions of Law**

130 CMR 420.431 contains the relevant MassHealth regulation addressing how a MassHealth member may receive approval on a prior authorization request for comprehensive orthodontic treatment. The regulation reads as follows:

### **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. The provider must seek prior authorization for orthodontic treatment and begin initial placement and insertion of orthodontic appliances and partial banding or full banding and brackets prior to the member's 21st birthday.

#### **(B) Definitions.**

(1) Pre-orthodontic Treatment Examination. Includes the periodic observation of the member's dentition at intervals established by the orthodontist to determine when orthodontic treatment should begin.

(2) Interceptive Orthodontic Treatment. Includes treatment of the primary and transitional dentition to prevent or minimize the development of a handicapping malocclusion and therefore, minimize or preclude the need for comprehensive orthodontic treatment.

(3) Comprehensive Orthodontic Treatment. Includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases, including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development.

(4) Orthodontic Treatment Visits. Periodic visits which may include, but are not limited to, updating wiring, tightening ligatures or otherwise evaluating and updating care while undergoing comprehensive orthodontic treatment.

(C) Service Limitations and Requirements.

(1) Pre-orthodontic Treatment Examination. The MassHealth agency pays for a pre-orthodontic treatment examination for members younger than 21 years old, once per six months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's 21st birthday. The MassHealth agency pays for a pre-orthodontic treatment examination as a separate procedure (see 130 CMR 420.413). The MassHealth agency does not pay for a pre-orthodontic treatment examination as a separate procedure in conjunction with pre-authorized ongoing or planned orthodontic treatment.

(2) Interceptive Orthodontics.

(a) The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime. The MassHealth agency determines whether the treatment will prevent or minimize a handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual.

(b) The MassHealth agency limits coverage of interceptive orthodontic treatment to primary and transitional dentition with at least one of the following conditions: constricted palate, deep impinging overbite, Class III malocclusion, including skeletal Class III cases as defined in Appendix F of the Dental Manual when a protraction facemask/reverse pull headgear is necessary at a young age, craniofacial anomalies, anterior cross bite, or dentition exhibiting results of harmful habits or traumatic interferences between erupting teeth.

(c) When initiated during the early stages of a developing problem, interceptive orthodontics may reduce the severity of the malformation and mitigate its causes. Complicating factors such as skeletal disharmonies, overall space deficiency, or other conditions may require subsequent comprehensive orthodontic treatment. Prior authorization for comprehensive orthodontic treatment may be sought for Class III malocclusions as defined in Appendix F of the Dental Manual requiring facemask treatment at the same time that authorization for interceptive orthodontic treatment is sought. For members with craniofacial anomalies, prior authorization may separately be sought for the cost of appliances, including installation.

(3) Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime for a member 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record. The MassHealth agency pays for the office visit, radiographs and a record fee of the pre-orthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion of the orthodontic fixed and removable appliances (for example: rapid

palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches 21 years of age. Comprehensive orthodontic care should commence when the first premolars and first permanent molars have erupted. It should only include the transitional dentition in cases with craniofacial anomalies such as cleft lip or cleft palate. Comprehensive treatment may commence with second deciduous molars present. Subject to prior authorization, the MassHealth agency will pay for more than one comprehensive orthodontic treatment for members with cleft lip, cleft palate, cleft lip and palate, and other craniofacial anomalies to the extent treatment cannot be completed within three years.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-day) basis for ongoing orthodontic maintenance and treatment beginning after the initial placement, and insertion of the orthodontic fixed and removable appliances. If a member becomes inactive for any period of time, prior authorization is not required to resume orthodontic treatment visits and subsequent billing, unless the prior authorization time limit has expired. The provider must document the number and dates of orthodontic treatment visits in the member's orthodontic record.

(5) Orthodontic Case Completion. The MassHealth agency pays for orthodontic case completion for comprehensive orthodontic treatment which includes the removal of appliances, construction and placement of retainers and follow-up visits. The MassHealth agency pays for a maximum of five visits for members whose orthodontic treatment begins before their 21st birthday, consistent with 130 CMR 420.431(A). The MassHealth agency pays for the replacement of lost or broken retainers with prior authorization.

(6) Orthodontic Transfer Cases. The MassHealth agency pays for members who transfer from one orthodontic provider to another for orthodontic services subject to prior authorization to determine the number of treatment visits remaining. Payment for transfer cases is limited to the number of treatment visits approved. Providers must submit requests using the form specified by MassHealth.

(7) Orthodontic Terminations. The MassHealth agency requires providers to make all efforts to complete the active phase of treatment before requesting payment for removal of brackets and bands of a noncompliant member. If the provider determines that continued orthodontic treatment is not indicated because of lack of member's cooperation and has obtained the member's consent, the provider must submit a written treatment narrative on office letterhead with supporting documentation, including the case prior authorization number.

(8) Radiographs. Payment for Cephalometric and radiographs used in conjunction with orthodontic diagnosis is included in the payment for comprehensive orthodontic treatment (see 130 CMR 420.423(D)). The MassHealth agency pays for radiographs as a separate procedure for orthodontic diagnostic purposes only for members younger than 21 years old if requested by the MassHealth agency.

(9) Oral/Facial Photographic Images. The MassHealth agency pays for digital or photographic prints, not slides, only to support prior-authorization requests for comprehensive orthodontic treatment. Payment for digital or photographic prints is included in the payment for



comprehensive orthodontic treatment or orthognathic treatment. The MassHealth agency does not pay for digital or photographic prints as a separate procedure (see 130 CMR 420.413). Payment for orthodontic treatment includes payment for services provided as part of the pre-orthodontic treatment examination, unless the MassHealth agency denies the prior authorization request for interceptive or comprehensive orthodontic treatment. The MassHealth agency pays for the pre-orthodontic treatment examination if prior authorization is denied for interceptive or comprehensive orthodontic treatment.

MassHealth uses the HLD Form as a tool to determine if a member has a severe, disfiguring and handicapping malocclusion. If a member does not have an autoqualifier, then measurements are taken of the member's overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower arch, labio-lingual spread, and posterior unilateral crossbite, and each measurement is given a value based on the calculation worksheet on the HLD Form. A HLD score of 22 is the minimum score which indicates a severe, disfiguring and handicapping malocclusion.

In the instant matter, the appellant's orthodontist, Dr. Lala, awarded the appellant a score of 13 points on the HLD Form.

On the other hand, the MassHealth representative examined the radiographs and photographs of the appellant, and awarded the appellant a score of 18 points on the HLD Form.

Neither score is the required score of 22 points on the HLD Form.

MassHealth may also approve a member for comprehensive orthodontic treatment based on medical necessity, including to correct or ameliorate a diagnosed speech or language pathology caused by the member's malocclusion, regardless of the HLD score. However, no documentary evidence of the appellant's speech or language pathology was submitted, despite a lengthy record-open period.

Based on the totality of the evidence, I conclude that the appellant does not have a severe, disfiguring and handicapping malocclusion. Because the appellant does not have a severe, disfiguring and handicapping malocclusion, MassHealth was correct in denying the PA request for comprehensive orthodontic treatment.

MassHealth's action is upheld, and the 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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Paul C. Moore  
Hearing Officer  
Board of Hearings

cc: DentaQuest representative