

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2177292
<b>Decision Date:</b>	11/24/2021	<b>Hearing Date:</b>	11/01/2021
<b>Hearing Officer:</b>	Sara E. McGrath		

**Appearances for Appellant:**



**Appearances for MassHealth:**

Dr. Carl Perlmutter



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Authorization for Dental Services
<b>Decision Date:</b>	11/24/2021	<b>Hearing Date:</b>	11/01/2021
<b>MassHealth Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant Rep.:</b>	
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 118E and 30A, and the rules and regulations promulgated thereunder.

### Jurisdiction

Through a notice dated September 9, 2021, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on September 21, 2021 (130 CMR 610.015(B); Exhibit 1). Denial of a request for prior authorization is a valid basis for appeal (130 CMR 610.032).

### 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

MassHealth was represented at hearing by Dr. Carl Perlmutter, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on September 7, 2021. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.<sup>1</sup> The provider's HLD Form indicates a total score of 44, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	4	1	4
Overbite in mm	9	1	9
Mandibular Protrusion in mm	3	5	15
Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding <sup>2</sup>	Maxilla: Mandible :	Flat score of 5 for each <sup>3</sup>	10
Labio-Lingual Spread, in mm (anterior spacing)	0	1	0
Posterior Unilateral Crossbite	No	Flat score of 4	3
Posterior impactions or congenitally missing posterior teeth	0	3	3
<b>Total HLD Score</b>			<b>44</b>

As part of the HLD calculation, the provider also indicated that the appellant has a deep impinging overbite, which is a condition that would automatically qualify him for approval (Exhibit 3).

Dr. Perlmutter testified telephonically and stated that when DentaQuest initially 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:

---

<sup>1</sup> The form also includes space for providers to indicate whether, regardless of score, a patient has one of the several conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case did not allege the presence of an auto-qualifying condition and did not complete a medical necessity narrative (Exhibit 3).

<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.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	7	1	7
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: Mandible: yes	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>18</b>

Because it found an HLD score below the threshold of 22 – and did not agree that the appellant had a deep impinging overbite – MassHealth denied the appellant’s prior authorization request on September 9, 2021 (Exhibit 1).

In preparation for hearing, Dr. Perlmutter completed an HLD Form based on a review of the photographs and X-rays submitted by the provider with the PA request. He determined that the appellant’s overall HLD score was 18, calculated below:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	7	1	7
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: Mandible: yes	Flat score of 5 for each	5
Labio-Lingual Spread, in mm (anterior spacing)	3	1	3
Posterior Unilateral Crossbite	No	Flat score of 4	0
Posterior impactions or congenitally missing posterior teeth	0	3	0

Total HLD Score			18
-----------------	--	--	----

Dr. Perlmutter testified that the records do not show that the appellant has mandibular protrusion; he stated that the photographs show a normal back bite on both sides. Further, he testified that the appellant has more than 3.5 mm of crowding in only the lower anterior arch, not the upper anterior arch. He also noted that the appellant does not have a posterior crossbite, nor a posterior impaction or congenitally missing posterior teeth. He indicated that he disagrees with the provider's finding of a deep impinging overbite. He stated that a deep impinging overbite would be found when the edges of the lower front teeth cause impressions in the palate behind the upper front teeth. He stated that while the appellant's bite is deep, the photographs show no marks or impressions behind the upper front teeth. He stated that because the appellant's HLD score is below the threshold of 22, he could not reverse the denial of the prior authorization request.

The appellant's mother appeared telephonically and testified on her son's behalf.<sup>4</sup> She stated that the appellant has problems chewing certain food and complains of pain. She took her son to Boston Children's Hospital for an evaluation and he is now taking medication for reflux because he is not properly breaking down his food. She described that his permanent teeth came in before his baby teeth fell out, resulting in two rows of teeth. His jaw is misaligned, and he is in pain.

Dr. Perlmutter responded and stated that because the appellant is still missing some permanent teeth, chewing difficulties are not unexpected.

### Findings of Fact

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

1. On September 7, 2021, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 44.
3. The provider also alleged that the appellant has a deep impinging overbite, which, if verified, would result in automatic approval.
4. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 18.
5. On September 9, 2021, MassHealth notified the appellant that the prior authorization request had been denied.

---

<sup>4</sup> The appellant's mother indicated that she wanted the appellant's provider to testify at the hearing, but the provider was unavailable at the time of the hearing.

6. On September 21, 2021, the appellant filed a timely appeal of the denial.
7. In preparation for hearing on November 1, 2021, MassHealth orthodontic consultant reviewed the provider's paperwork, finding an HLD score of 18. He found no deep impinging overbite.
8. The appellant's back bite is normal.
9. The appellant does not have at least 3.5 mm of crowding in his upper anterior arch.
10. The appellant does not have a posterior crossbite, nor a posterior impaction or congenitally missing posterior teeth.
11. The appellant's HLD score is below the threshold score of 22.
12. There are no marks or ulcerations in the palate behind the upper front teeth to indicate a deep impinging overbite.
13. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft palate, impinging overbite, impactions where extraction is not indicated, severe traumatic deviations, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding of 10 mm or more, spacing of 10 mm or more, anterior or posterior crossbite or 3 or more maxillary teeth, 2 or more congenitally missing teeth of at least one tooth per quadrant, or lateral or anterior open bite of 2 mm or more of 4 or more teeth per arch).
14. The appellant has not provided documentation that the service is otherwise medically necessary based on a severe deviation affecting the patient's mouth and/or underlying dentofacial structures; a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion; a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion; a diagnosed speech or language pathology caused by the patient's malocclusion; or diagnosed condition caused by the overall severity of the patient's malocclusion.

### **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 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*.

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, in two other circumstances: First, MassHealth will approve a request if there is evidence of a cleft palate, impinging overbite, impactions where extraction is not indicated, severe traumatic deviations, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding of 10 mm or more, spacing of 10 mm or more, anterior or posterior crossbite or 3 or more maxillary teeth, 2 or more congenitally missing teeth of at least one tooth per quadrant, or lateral or anterior open bite of 2 mm or more of 4 or more teeth per arch. Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient’s mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient’s malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient’s malocclusion;
- A diagnosed speech or language pathology caused by the patient’s malocclusion; or
- A diagnosed condition caused by the overall severity of the patient’s malocclusion.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider’s justification of medical necessity involves a mental, emotional, or behavioral condition; a nutritional deficiency; a speech or language pathology; or the presence of any other condition that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must:

- clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g., general dentist, oral surgeon, physician, clinical psychologist, clinical dietitian, speech therapist);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;

- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider found an overall HLD score of 44, and also alleged that he has a condition (deep impinging overbite) that would result in automatic approval regardless of the score. After reviewing the documents included with the provider's submission, MassHealth calculated a score of 18 and found he did not have a deep impinging overbite. Upon review of the prior authorization documents, a different orthodontic consultant for MassHealth found the HLD score was 18, also finding that he did not have a deep impinging overbite.

After reviewing the prior authorization documents, I am persuaded by MassHealth's determination that the HLD score is below 22. The main difference is in the scoring of mandibular protrusion, which relates to the back bite. Based on the photographs, MassHealth's determination (by two orthodontists) that the back bite is normal is more credible than the provider's determination that the bite is "off" by 3 mm. Further, the photographs also support MassHealth's determination that there is insufficient crowding in the appellant's upper anterior arch to receive any points in this category. Also, the photographs and dental X-rays support MassHealth's determination that the appellant does not have a posterior crossbite, a posterior impaction, or congenitally missing posterior teeth. When combined with the other areas of the HLD scoring tool, the total score is below the threshold of 22.

The record also supports MassHealth's determination that the appellant does not automatically qualify for treatment based on a deep impinging overbite, as the photographs do not show any marks or impression in the gum tissue behind the upper front teeth. There is also no evidence that he has any of the other conditions that result in automatic approval without regard for the HLD numerical score. Further, the provider did not allege, nor did MassHealth find, that treatment is otherwise medically necessary as set forth in Appendix D of the Dental Manual. As such, the appellant has not demonstrated that he meets the MassHealth criteria for approval of comprehensive orthodontic treatment. MassHealth's denial of the prior authorization request was proper.

As noted above, the appellant may resubmit her PA request, with a medical necessity narrative, and DentaQuest will review it at that time.<sup>5</sup>

---

<sup>5</sup> Resubmission may also be warranted in light of recent dental regulation changes that apply to PA submissions after October 15, 2021.



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.

---

Sara E. McGrath  
Hearing Officer  
Board of Hearings

cc: DentaQuest, PO Box 9708, Boston, MA 02114-9708