

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2177370
<b>Decision Date:</b>	11/04/2021	<b>Hearing Date:</b>	11/03/2021
<b>Hearing Officer:</b>	Patricia Mullen		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. David Cabeceiras, 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>	Orthodontic treatment
<b>Decision Date:</b>	11/04/2021	<b>Hearing Date:</b>	11/03/2021
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras, DentaQuest	<b>Appellant's Rep.:</b>	██████
<b>Hearing Location:</b>	Quincy Harbor 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 September 13, 2021, MassHealth denied the appellant's request for prior authorization for orthodontic treatment because MassHealth determined that the appellant does not have a handicapping malocclusion as is required by MassHealth regulations for orthodontic coverage. (see 130 CMR 420.431 and Exhibit 1). The appellant filed this appeal in a timely manner on September 27, 2021. (see 130 CMR 610.015(B) and Exhibit 2). Denial of prior authorization is valid grounds for appeal. (see 130 CMR 610.032).

## Action Taken by MassHealth

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

## Summary of Evidence

The appellant is a child and was represented telephonically at the hearing by her mother. MassHealth was represented telephonically at the hearing by an orthodontist consultant with DentaQuest, the contracted agent of MassHealth that makes the dental prior authorization determinations. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant on September 11, 2021. (Exhibit 3, p. 3). The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a MassHealth Handicapping Labio-Lingual Deviations (HLD) Form and submitted these along with photographs of the appellant's mouth. (Exhibit 3) The appellant's orthodontist noted on the HLD form that no medical necessity narrative was submitted. (Exhibit 3, p. 8).

The MassHealth representative testified MassHealth only covers orthodontic treatment when the member has a handicapping malocclusion. The MassHealth representative stated that the HLD form lists 7 autoqualifiers and 9 characteristics, such as bite and crowding, with corresponding numerical values. If a member has any of the 7 autoqualifiers or a HLD score of 22 or higher, the member meets the criteria for a handicapping malocclusion. (Testimony, exhibit 3). The 7 autoqualifiers are a cleft palate, deep impinging overbite with severe soft tissue damage, anterior impactions, severe traumatic deviations, overjet greater than 9 millimeters, reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters. (Exhibit 3, p. 7). If any of these are present, the request for orthodontic treatment is approved. (Exhibit 3, testimony). If none of these are present, the orthodontist measures overjet, overbite, mandibular protrusion, open bite, ectopic eruption, anterior crowding in the upper and lower mouth, labio-lingual spread or anterior spacing, posterior unilateral crossbite, and posterior impactions or congenitally missing posterior teeth, and gives each measurement a value based on the calculation worksheet on the HLD Form. (Exhibit 3, pp. 7, 9 testimony).

The appellant's orthodontist indicated that the appellant had the autoqualifier of deep impinging overbite with severe soft tissue damage such as ulcerations or tissue tears with more than indentations. (Exhibit 3, p. 7). The appellant's orthodontist also calculated a HLD score of 17, measuring 6 millimeters for overjet, 6 millimeters for overbite, and 5 points for crowding in the upper anterior teeth. (Exhibit 3, p. 7).

Based on a review of the photographs of the appellant's mouth, MassHealth/DentaQuest calculated a HLD score of 19, measuring 6 millimeters for overjet, 5 millimeters for overbite, 5 points for crowding in the upper anterior teeth, and 3 millimeters for labio-lingual spread. (Exhibit 3, p. 12). MassHealth/DentaQuest did not find a deep impinging overbite based on a review of the photographs. (Exhibit 3, p. 12, testimony). The MassHealth representative testified that he calculated the same HLD score as MassHealth/DentaQuest after carefully examining the appellant's photographs.

The MassHealth representative explained that in order to satisfy the criteria of deep impinging overbite, the photographs must show the bottom teeth are biting into the appellant's upper palate.

(Exhibit 3, p. 7). The MassHealth representative testified that he carefully examined the appellant's photographs and the photos do not show the appellant's bottom teeth biting into the appellant's upper palate. (Exhibit 3, p. 11). The MassHealth representative noted that the criteria for coverage of orthodontic treatment was modified on October 15, 2021 and to meet the criteria for an impinging overbite, there must be evidence that the lower teeth are making contact with the soft tissue of the upper mouth. The MassHealth representative stated that MassHealth has provided detailed instructions to orthodontic providers with regard to providing evidence of an impinging overbite. The MassHealth representative stated that the orthodontist could submit lateral cephalometric radiographs showing the bottom teeth occluding with the upper palate or could try to get clear photographs showing the bottom teeth occluding with the upper palate.

The MassHealth representative stated that the appellant would benefit from orthodontic treatment, but the issue here is not whether the appellant needs braces, but rather whether she meets the criteria under the regulations for MassHealth to cover the orthodontic treatment. The MassHealth representative stated that because there is no evidence of a handicapping malocclusion, MassHealth will not cover the orthodontic treatment at this time.

The appellant's mother asked if the Board of Hearings received a letter from the appellant's orthodontist that she had mailed. At the time of the hearing, the hearing officer had not received the letter, but after the hearing, the letter was received at the Board of Hearings. In the letter, dated October 22, 2021, the appellant's orthodontist writes that he believes the appellant meets the requirements to be approved in that she has a Class II division I malocclusion characterized by an overbite of 99-95%, measured at the upper and lower incisors. (Exhibit 5). The appellant's mother stated that she also mailed panorex xrays to DentaQuest. The MassHealth representative checked with the DentaQuest representative in Boston who reported that the panorex xrays had not been received. The MassHealth representative noted that the panorex xrays would not help to support the autoqualifier of impinging overbite, rather clear photographs as noted above, and lateral cephalometric xrays would offer better evidence. The appellant's mother noted that she is in the process of reapplying for MassHealth. The MassHealth representative noted that if MassHealth coverage ends at any time during treatment, MassHealth payments cease.

## **Findings of Fact**

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

1. The appellant's orthodontist submitted a request for prior authorization for orthodontic treatment for the appellant.
2. The appellant's orthodontist completed an Orthodontics Prior Authorization Form and a HLD Form and submitted these along with photographs of the appellant's mouth to DentaQuest.
3. MassHealth/DentaQuest and the MassHealth representative calculated a HLD score of 19 after examining the appellant's photographs.

4. The appellant does not have a cleft palate, anterior impactions, severe traumatic deviations, overjet greater than 9 millimeters, reverse overjet greater than 3.5 millimeters, or severe maxillary anterior crowding greater than 8 millimeters.
5. Evidence did not support that the appellant has an impinging overbite.
6. A HLD score of 22 is the minimum score indicative of a handicapping malocclusion.

## **Analysis and Conclusions of Law**

### **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. 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. The pre-orthodontic treatment examination include 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. 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. 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. Comprehensive orthodontic treatment includes the transitional and adult dentition.

(4) Orthodontic Treatment Visits. Orthodontic treatment visits are 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 preorthodontic treatment examination for members under the age of 21, once per six (6) months per member, and only for the purpose of determining whether orthodontic treatment is medically necessary, and can be initiated before the member's twenty-first 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. The MassHealth agency pays for interceptive orthodontic treatment once per member per lifetime as an extension of preventative orthodontics that may include localized tooth movement. The MassHealth agency determines if the treatment will prevent or minimize the handicapping malocclusion based on the clinical standards described in Appendix F of the Dental Manual. Interceptive orthodontic treatment may occur in the primary or transitional dentition, may include such procedures as the redirection of ectopically erupting teeth and correction of dental crossbite or recovery of space loss where overall space is inadequate. When initiated during the incipient 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.

(3) Comprehensive Orthodontics. 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 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 preorthodontic 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 (3) 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 age 21.

(4) Orthodontic Treatment Visits. The MassHealth agency pays for orthodontic treatment visits on a quarterly (90-days) 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 (5) visits for members under the age of 21. 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 under age 21 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.

130 CMR 420.431.

MassHealth covers comprehensive orthodontic treatment if the MassHealth member evidences a handicapping malocclusion either by having one of the autoqualifiers listed on the HDL form or by meeting a HLD score of 22 or higher. Comprehensive orthodontic treatment is also covered by MassHealth if it is medically necessary for the member as evidenced by a medical necessity narrative and supporting documentation.

The appellant's orthodontist noted that no medical necessity narrative would be submitted. Despite the appellant's orthodontist's indication that the appellant has the autoqualifier of a deep impinging

overbite, the submitted photographic evidence does not show a deep impinging overbite. The appellant's mother was advised to have the orthodontist submit evidence of the impinging overbite with the next request for prior authorization, suggesting lateral cephalometric xrays or more clear photographs showing the appellant's lower teeth biting into the upper palate. MassHealth determined the appellant's HLD score is 19 and her orthodontist calculated an HLD score of 17. Because there is no evidence that the appellant has any of the autoqualifiers, nor does she have a HLD score of 22 or higher, there is no evidence to support that the appellant has a handicapping malocclusion. MassHealth was correct in denying the request for prior approval pursuant to 130 CMR 420.431. 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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Patricia Mullen  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest