

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



|                         |                |                       |            |
|-------------------------|----------------|-----------------------|------------|
| <b>Appeal Decision:</b> | Denied         | <b>Appeal Number:</b> | 2177764    |
| <b>Decision Date:</b>   | 12/08/2021     | <b>Hearing Date:</b>  | 11/15/2021 |
| <b>Hearing Officer:</b> | Marc Tonaszuck |                       |            |

**Appearance for Appellant:**



**Appearance for MassHealth:**  
Dr. Carl Perlmutter, DentaQuest

**Interpreter:**



*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>     | 12/08/2021                         | <b>Hearing Date:</b>     | 11/15/2021   |
| <b>MassHealth's Rep.:</b> | Dr. Carl Perlmutter,<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 08/27/2021, 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 10/12/2021 (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 08/25/2021. 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   | 4                         | 1                        | 4              |
| Overbite in mm  | 6                         | 1                        | 6              |
| Mandibular Protrusion in mm   | 2                         | 5                        | 10             |
| 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)  | 7                         | 1                        | 7              |
| 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>37</b>      |

The appellant's orthodontist also identified an automatic qualifying condition, specifically

severe maxillary anterior crowding (top front six teeth), more than 8 mm. He did not 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 14. The DentaQuest HLD Form reflects the following scores:

| Conditions Observed   | Raw Score                 | Multiplier               | Weighted Score |
|---|---------------------------|--------------------------|----------------|
| Overjet in mm   | 4                         | 1                        | 4              |
| 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: 0 | Flat score of 5 for each | 5              |
| 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>14</b>      |

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

At hearing, Dr. Perlmutter testified that he reviewed the X-rays and photographs included with the prior authorization request. He testified that the maxillary anterior crowding exists; however, it is less than 8 mm. He then testified that the appellant has an HLD score of 14, with identical measurements as the DentaQuest orthodontist measured above. Dr. Perlmutter 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 the appellant's dentist told him that if the appellant does not get braces, he will be in "big trouble." The appellant has "multiple issues with his teeth." The father read a letter from the appellant that states, in part, that he bites the inside of his mouth and his lips when he eats or talks. He cannot close his mouth because of how crooked his front teeth are. When he talks or watches television, he cannot close his mouth.

## Findings of Fact

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

1. On 08/25/2021, 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 37 points. He also indicated that an automatic qualifying condition exists, specifically severe maxillary anterior crowding more than 8 mm. (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 14, 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 08/27/2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On 10/12/2021, the appellant filed a timely appeal of the denial (Exhibit 2).
9. At hearing on 11/15/2021, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and X-rays and found an HLD score of 14. (Testimony).
10. The appellant's HLD score is below 22.
11. The MassHealth orthodontist measured the crowding in the appellant's top front teeth and found it be less than 8 mm.
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 37, with an automatic qualifying condition, specifically severe maxillary anterior crowding. After reviewing the provider’s submission, MassHealth found an HLD score of 14 and no automatic qualifying condition. Upon review of the prior authorization documents including photographs and X-rays, at hearing a different orthodontic consultant found an HLD score of 14 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 maxillary, anterior crowding, the mandibular protrusion, and the crowding on the lower arch. First, Dr. Perlmutter testified that the appellant’s provider did not correctly the extent of the crowding in the upper front six teeth. Dr. Perlmutter testified that, although there is at least 3.5 mm of crowding, the crowding is less than 8 mm., which is required to meet the criteria of the automatic qualifying condition. Second, Dr. Perlmutter testified that there is no evidence of a mandibular protrusion, which would be evidenced by how the bottom molars line up with top molars. Third, Dr. Perlmutter explained that the appellant does not have 3.5 mm. of crowding in the lower front six teeth. After Dr. Perlmutter’s measurements, MassHealth could not find 22 points on the HLD Index form or an automatic qualifying condition.

Dr. Perlmutter’s measurements are supported by the photographs X-rays and his testimony. 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. Further, there is no medical necessity narrative included in the hearing record. 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