

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2178068
<b>Decision Date:</b>	1/05/2022	<b>Hearing Date:</b>	11/29/2021
<b>Hearing Officer:</b>	Christopher Jones		

**Appearance for Appellant:**



**Appearance for MassHealth:**

Dr. Harold Kaplan



*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 – Orthodontia
<b>Decision Date:</b>	1/05/2022	<b>Hearing Date:</b>	11/29/2021
<b>MassHealth’s Rep.:</b>	Dr. Harold Kaplan	<b>Appellant’s Rep.:</b>	██████
<b>Hearing Location:</b>	Quincy Harbor South	<b>Aid Pending:</b>	No

## 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 October 7, 2021, MassHealth denied the appellant’s prior authorization request for comprehensive orthodontia. Exhibit 2. The appellant filed this appeal in a timely manner on October 22, 2021. Exhibit 2; 130 CMR 610.015(B). Denial of assistance is valid grounds for appeal. 130 CMR 610.032.

## Action Taken by MassHealth

MassHealth denied the appellant’s request for orthodontia because the agency determined the appellant’s Handicapping Labiolingual Deviations score did not total at least 22 points.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in determining that that comprehensive orthodontia was not medically necessary for the appellant.

## Summary of Evidence

The appellant’s provider submitted a prior authorization request on the appellant’s behalf seeking MassHealth coverage for comprehensive orthodontic treatment. Along with photographs and x-rays, the provider submitted a Handicapping Labio-Lingual Deviations (“HLD”) Form, with a total score of 19 points.

DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant's HLD score was 18. At the hearing, it was explained that MassHealth only pays for orthodontia when it is "medically necessary" to correct a handicapping bite. MassHealth uses an HLD scale to measure various aspects of a person's bite to determine if the member has a "handicapping malocclusion." This scale looks at nine characteristics of a bite to measure how the teeth work. Many children may be appropriate for orthodontic care but do not meet MassHealth's definition of a physically handicapping bite.

Dr. Kaplan performed his own measurements on the submitted images and he agreed with the provider's score of 19 points.

The appellant's foster mother read a letter into the record that she received from DentaQuest, which said that the appellant's score only needed to be over 22 if he did not have one of seven conditions listed on the letter. She argued that the appellant has "severe crowding of [his] upper front teeth" and his "top or bottom teeth are too far forward and do not line up correctly." She argued that the appellant has severe crowding of his upper front teeth, and that his upper front teeth are forward and do not line up correctly. Therefore, she felt that this letter indicates that he should be approved without needing to have his HLD score determined. The appellant's representative also identified that the source of this language was 130 CMR 420.431.

It was discussed that these sounded similar to the seven "autoqualifiers," conditions so severe that MassHealth will approve orthodontia without needing to consider the detailed HLD score. However, there are much clearer descriptions of the autoqualifiers on the HLD form and in the other published guidance governing when orthodontia is approved. Dr. Kaplan testified that there are autoqualifiers that apply due to severe crowding in an arch, but that the crowding needs to be greater than 10 mm.<sup>1</sup> Similarly, there is an autoqualifier for an overjet greater than nine mm. He testified that the appellant does have crowding in his upper front teeth. Five of the points the appellant received in his HLD score came from crowding greater than 3.5 mm. However, he does not have eight mm of crowding in a front arch, and his overjet is only a few mm.

The appellant's representative responded that these requirements are not in the letter she received. According to the letter she received, the appellant should qualify for orthodontia at this time because he has severe crowding and his top teeth stick too far forward and do not line up correctly. The appellant's representative was asked to submit a copy of the letter. A photograph of a single page of the letter was submitted. The submitted image shows two bulleted paragraphs, which appear to be duplicative. Beside each paragraph is a reference to 130 CMR 420.431.

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<sup>1</sup> At the time the prior authorization request was made, the definition of "severe crowding" only measured crowding in the front upper teeth, but it only required eight mm of crowding. Now, all crowding in the entire arch may be considered, but there must be 10 mm in the arch to trigger the autoqualifier. See Exhibit 3; Transmittal Letter DEN-111 (Oct. 2021).

## Findings of Fact

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

1. The appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment with photographs and x-rays. The submitted HLD Form found a total score of 19. Exhibit 3, pp. 5, 7-13.
2. MassHealth denied comprehensive orthodontia, finding only 18 points on the HLD scale. Exhibit 3, pp. 3-4, 6, 14.
3. For the appeal, a third orthodontist performed an independent evaluation and found a score of 19 points. The appellant has crowding of the upper front teeth that is greater than 3.5 mm, but it is less than eight mm. The appellant does not have an overjet greater than nine mm. Testimony by Dr. Kaplan.

## Analysis and Conclusions of Law

MassHealth provides orthodontic services when it determines them to be medically necessary. 130 CMR 420.431. Medical necessity for dental and orthodontic treatment must be shown in accordance with the regulations governing dental treatment, 130 CMR 420.000, and the MassHealth Dental Manual.<sup>2</sup> 130 CMR 450.204. Pursuant to 130 CMR 420.431(C)(3), MassHealth "pays for comprehensive orthodontic treatment ... only when the member has a severe and handicapping malocclusion. The MassHealth agency determines whether a malocclusion is severe and handicapping based on the clinical standards described in Appendix D of the Dental Manual." The regulations do not speak directly to what conditions qualify as "severe and handicapping" except to specifically cover "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." 130 CMR 420.431(C)(3).

The clinical standards referenced in the regulations are set out in detail in the Office Reference Manual ("ORM") and the HLD Form. The HLD Form is a quantitative and objective method for measuring malocclusions. It is used to add up a single score based on a series of measurements that represent the degree to which a bite deviates from normal alignment and occlusion. MassHealth has made a policy decision that a score of 22 or higher signifies a "severe and handicapping malocclusion," ostensibly a medical necessity for orthodontia. Certain exceptional malocclusions are deemed automatically severe and handicapping: cleft palate, deep impinging overbite, severe maxillary anterior crowding, anterior impaction, severe traumatic deviation, overjet greater than

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<sup>2</sup> The Dental Manual and Appendix D are available on MassHealth's website, in the MassHealth Provider Library. (Available at <https://www.mass.gov/lists/dental-manual-for-masshealth-providers>, last visited December 20, 2021). Additional guidance is at the MassHealth Dental Program Office Reference Manual ("ORM"), available at: <https://www.masshealth-dental.net/MassHealth/media/Docs/MassHealth-ORM.pdf>. (Last visited December 20, 2021.) This form was updated on October 15, 2021. The earlier iteration is no longer available at masshealth-dental.net, but the HLD Form set out in this earlier ORM is in evidence and is being applied in this decision.

nine millimeters, or reverse overjet greater than 3.5 millimeters. The HLD Form also allows medical providers to explain how orthodontia is medically necessary, despite not satisfying the dental criteria otherwise captured on the form.

The language in the letter cited by the appellant appears nowhere in the regulations or the ORM. The closest corollary in the ORM is list of autoqualifiers on the HLD Form: Cleft Palate or Cranio-Facial Anomaly; Deep Impinging Overbite \*with severe soft tissue damage (e.g., ulcerations or tissue tears – more than indentations) \*; Anterior Impactions where extraction is not indicated; Severe Traumatic Deviations – This refers to facial accidents rather than congenital deformity. Do not include traumatic occlusions or crossbites; Overjet (greater than 9mm); Reverse Overjet (greater than 3.5mm); Severe Maxillary Anterior Crowding (greater than 8mm). See Exhibit 3, pp. 8-10.

The appellant's interpretation of the letter is understandable. Unfortunately, the language in the letter is a summarization of the coverage criteria. While generally accurate, it was incomplete in its detail. The appellant certainly has "crowding of [his] upper front teeth" and his "top or bottom teeth are too far forward and do not line up correctly." However, his crowding is not more than eight mm and his overjet is not greater than nine mm. Therefore, the appellant does not have an autoqualifier, nor does the appellant have and HLD score of 22 or more. Therefore, 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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Christopher Jones  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA