

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2178140
<b>Decision Date:</b>	01/21/2022	<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>	01/21/2022	<b>Hearing Date:</b>	11/29/2021
<b>MassHealth’s Rep.:</b>	Dr. Harold Kaplan	<b>Appellant’s Rep.:</b>	██████
<b>Hearing Location:</b>	Remote	<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 September 7, 2021, MassHealth denied the appellant’s prior authorization request for comprehensive orthodontia. Exhibit 3, p. 3. The appellant filed this appeal in a timely manner on October 25, 2021. Exhibit 2; 130 CMR 610.015(B); EOM 21-17 (Nov. 2021). 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 25 points. This score was comprised of:

- Two points for two mm of overjet;
- Two points for two mm of overbite;
- Ten points for two mm of mandibular protrusion;
- Three points for one ectopic eruptions;
- Five points for crowding greater than 3.5 mm in the anterior mandible; and
- Three points for three mm of labio-lingual spread.

DentaQuest, MassHealth's dental contractor, reviewed the submitted images and determined that the appellant's HLD score was 16. This score did not allow any points for an ectopic eruption or mandibular crowding; also, only two mm of labio-lingual spread were found.

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 found 19 points. He agreed that there was an ectopic eruption, but he did not see at least 3.5 mm of crowding in the lower front teeth. He also only saw two mm of labio-lingual spread. Without the five points for anterior crowding of the lower front teeth, the provider's score would also be below 22 points.

The appellant's mother argued that this treatment is preventative, so you should not need to wait for there to be a present handicap to allow coverage. She found the MassHealth process to be discouraging because she did not want her son's bite to grow worse before it could be corrected. She explained that he is self-conscious of bite and that he covers his mouth when he talks for laughs. It was explained that if he sought counseling arising from his teeth, that the counselor or therapist could write a letter explaining that orthodontia was medically necessary for psychological reasons. This would need to be submitted through the orthodontist, but it could qualify him for orthodontia where the dental problems alone do not satisfy the coverage criteria.

## **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 25. Five points were awarded for lower front crowding greater than 3.5 mm. Exhibit 3, pp. 6, 8-14.

2. MassHealth denied comprehensive orthodontia, finding only 16 points on the HLD scale. No points were allowed for anterior crowding. Exhibit 3, pp. 3-5, 7, 15.
3. Dr. Kaplan found a score of 19 points. He agreed there was some crowding of the lower front teeth, but he did not see at least 3.5 mm of crowding. 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>1</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 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 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 substantive disagreement between the parties is whether the appellant is entitled to five points for anterior crowding. The instruction from the HLD Form in effect at the time of the prior authorization request were:

**Anterior Crowding:** Arch length insufficiency must exceed 3.5 mm. Do not score mild rotations that may react favorably to stripping or mild expansion procedures. Enter 5 points for maxillary and mandibular anterior crowding. If

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<sup>1</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](https://www.masshealth-dental.net), but the HLD Form set out in this earlier ORM is in evidence and is being applied in this decision.

condition no. 12, ectopic eruption, is also present in the anterior portion of the mouth, score the most severe condition. Do not score both conditions.

Dr. Kaplan's testimony was that the appellant did not have at least 3.5 mm of crowding in the lower front arch. His scoring is credited in this matter because he is aware of the specific rules governing when to score five points for anterior crowding. In the absence of specific information from the provider contradicting Dr. Kaplan's testimony, his score on this characteristic shall be used. If five points for mandibular anterior crowding is removed from the provider's score, all scores correspond to find fewer than 22 points on the HLD scale. Therefore, the appellant does not qualify for coverage at this time. 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