

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	DENIED	<b>Appeal Number:</b>	2178964
<b>Decision Date:</b>	3/11/2022	<b>Hearing Date:</b>	01/12/2022
<b>Hearing Officer:</b>	Kenneth Brodzinski		

**Appearance for Appellant:**




**Appearance for MassHealth:**

Dr. David Cabeceiras



*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>	3/11/2022	<b>Hearing Date:</b>	01/12/2022
<b>MassHealth's Rep.:</b>	Dr. David Cabeceiras	<b>Appellant's Rep.:</b>	
<b>Hearing Location:</b>	Chelsea MEC		

## Authority

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

## Jurisdiction

Through notice dated November 3, 2021, MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment (Exhibit A). Appellant filed this appeal in a timely manner on November 22, 2021 (see 130 CMR 610.015(B) and Exhibit A). Denial of assistance is valid grounds for appeal (see 130 CMR 610.032).

## Action Taken by the Division

MassHealth denied Appellant's request for prior authorization for comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth acted correctly and pursuant to regulation in denying Appellant's request for comprehensive orthodontic treatment.

## Summary of Evidence

Both parties appeared by telephone.

The MassHealth representative, a practicing orthodontist, testified that Appellant's request for comprehensive orthodontic treatment was considered in light of the written information provided in the prior authorization request form (Exhibit B) and oral photographs submitted by Appellant's dental provider. The information was then applied to a standardized HLD Index that is used to make an objective determination as to whether Appellant has a "*handicapping malocclusion*." The MassHealth representative testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score. The MassHealth representative testified that a handicapping malocclusion typically reflects a minimum score of 22. He further testified that according to the prior authorization request, Appellant's dental provider reported an overall score of 27 (Exhibit B).

The MassHealth representative testified that MassHealth's agent DentaQuest reviewed the request and took measurements from Appellant's oral photographs and determined an HLD score of 17. The MassHealth representative testified his own review and measurements yielded a similar of 19.

The MassHealth representative explained the discrepancies between the provider's score of 27 and the scores under 22 determined by both the MassHealth representative and MassHealth's agent, DentaQuest. The provider measured the overbite at 9mm whereas MassHealth measured 5mm – 6mm. The provider also awarded points for crowding in the upper arch. MassHealth awarded no points for crowding in the upper arch because the minimum required crowding of 3.5mm was not verified by the dental photos or X-rays.

Appellant's mother testified that she agreed that the overbite did not measure 9mm but stated that she "believed" it could be 7mm - 8mm. Appellant's mother also testified that Appellant has been complaining of dental pain. She noted that one of Appellant lower teeth is very out of place and stated that Appellant's bite is not even. She also testified that Appellant will not smile because she is embarrassed about her teeth.

## Findings of Fact

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

1. Appellant seeks prior authorization for comprehensive orthodontic treatment.
2. Appellant's dental provider determined that Appellant has an overall HLD index score of 27.
3. Using measurements taken from Appellant's oral photographs, MassHealth's agent

DentaQuest determined that Appellant had an overall HLD index score of 17.

4. Using measurements taken from Appellant's oral photographs, the MassHealth representative, who is a practicing orthodontist, also determined that Appellant had an overall HLD index score of 19.
5. Appellant's overbite measures less than 9mm.
6. Appellant does not have a minimum of 3.5mm of crowding in her upper arch.
7. Appellant does not have a "handicapping malocclusion" at this time.

## Analysis and Conclusions of Law

The party appealing an administrative decision bears the burden of demonstrating the decision's invalidity (*Merisme v. Board of Appeals of Motor Vehicle Liability Policies and Bonds*, 27 Mass. App. Ct. 470, 474 (1989)).

Regulations at 130 CMR 420.431(C)(3) state in pertinent part:

*Service Descriptions and Limitations: Orthodontic Services:*

*Comprehensive Orthodontics. The MassHealth agency pays for comprehensive orthodontic treatment, subject to prior authorization, once per member per lifetime 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. Upon the completion of orthodontic treatment, the provider must take post treatment photographic prints and maintain them in the member's dental record.*

(Emphasis supplied).

Appendix D of the MassHealth Dental Manual requires an HLD score of 22 and/or the existence of an auto qualifier to evidence the existence of a handicapping malocclusion. Appellant's provider did not assert the existence of any auto qualifier.

While Appellant would benefit from orthodontic treatment, the above-cited regulation is clear and unambiguous. MassHealth will cover orthodontic treatment "**only**" for recipients who have a "*handicapping malocclusion*." Based on the informed and considered opinion of MassHealth's agent, DentaQuest and the MassHealth representative, who is a practicing orthodontist, who both examined Appellant's oral photographs, X-rays and the other documentation submitted by the requesting dental provider, I find that Appellant does not meet the requirements of 130 CMR

420.431(C)(3) insofar as she currently does not have the minimum objective score of 22 to indicate the presence of a “*handicapping malocclusion*.” Both DentaQuest and the MassHealth representative reached similar scores below 22 and agreed with the areas that Appellant’s dental provider had overscored.

Appellant has not met her burden. At hearing, Appellant’s mother offered her opinions and described Appellant’s dissatisfaction with her teeth, but she failed to provide any objective information or documentation or other evidence that would support the reversal of MassHealth’s determination.

For the foregoing reasons, the appeal is DENIED.

If Appellant’s dental condition should worsen as she grows older, and her dental provider believes a handicapping malocclusion can be documented, a new prior authorization request can be filed at that time as long as Appellant is under the age of 21.

## **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.

---

Kenneth Brodzinski  
Hearing Officer  
Board of Hearings

cc: MassHealth Representative: DentaQuest 2, MA