

Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2179613
Decision Date:	02/08/2022	Hearing Date:	01/19/2022
Hearing Officer:	Alexandra Shube		

Appearance for Appellant:



Appearance for MassHealth:

Dr. Carl Perlmutter



*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

Appeal Decision:	Denied	Issue:	Prior Authorization – Orthodontics
Decision Date:	02/08/2022	Hearing Date:	01/19/2022
MassHealth’s Rep.:	Dr. Carl Perlmutter	Appellant’s Rep.:	██████
Hearing Location:	Quincy Harbor South	Aid Pending:	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 December 9, 2021, MassHealth denied the appellant’s request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 5). The appellant filed this appeal in a timely manner on December 22, 2021 (see 130 CMR 610.015(B) and Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

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, in determining that the appellant is ineligible for comprehensive orthodontic treatment.

Summary of Evidence

The appellant is a minor MassHealth member whose mother 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 December 9, 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 did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment, nor did the provider include a medical necessity narrative. The provider's HLD Form indicates that she found a total score of 22, broken down as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	5	1	5
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 ¹	Maxilla: x Mandible: x	Flat score of 5 for each ²	10
Labio-Lingual Spread, in mm (anterior spacing)	4	1	4
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			22

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19. The DentaQuest HLD Form reflects the following scores:

¹ The HLD Form instructs the user to record the more serious (i.e., higher score) of either the ectopic eruption **or** the anterior crowding, but not to count both scores.

² The HLD scoring instructions state that to give points for anterior crowding, arch length insufficiency must exceed 3.5 mm.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	2	1	2
Overbite in mm	4	1	4
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: x Mandible: x	Flat score of 5 for each	10
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 rd molars)	0	3	0
Total HLD Score			19

Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on December 9, 2021.

At hearing, Dr. Perlmutter completed an HLD form based on a careful review of the x-rays and photographs. He determined that the appellant's overall HLD score was 19. Dr. Perlmutter's HLD Form reflects the following scores:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	3	1	3
Overbite in mm	4	1	4
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: x Mandible: x	Flat score of 5 for each	10
Labio-Lingual Spread, in mm (anterior spacing)	2	1	2
Posterior Unilateral Crossbite	0	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth (excluding 3 rd molars)	0	3	0
Total HLD Score			19

Dr. Perlmutter testified that the main difference between the appellant's provider's score and his and DentaQuest's is the measurement of the labio-lingual spread and the overbite. He explained that for the labio-lingual spread one looks at the worst tooth that is out of position and then measures how many millimeters it will take to get it into position. He measured that to be 2mm, DentaQuest measured it at 3mm, and the appellant's provider measured it at 4mm. He also felt that the appellant's provider over-estimated the appellant's overbite. Dr. Perlmutter and DentaQuest both determined the overbite was 4mm, while the appellant's orthodontist stated it was 5mm.

Dr. Perlmutter testified that the appellant has a high score and her teeth are still coming into place and shifting. He recommended that she be re-examined six months from the date of her most recent evaluation, which was on December 7, 2021. He advised the appellant that she may be re-examined every six months up until the age of 21, as long as she still qualifies for MassHealth.

The appellant's mother was not satisfied with the explanation and stated that her daughter's orthodontist says she needs braces. She testified that her daughter has a severe overbite which causes a lisp when she talks. She noted that her other daughter qualified for orthodontic treatment under MassHealth and her teeth did not look as bad and she did not have an overbite. She explained that her daughter's teeth are crooked and she had to have six baby teeth pulled because they were not coming out on their own. She questioned why Dr. Perlmutter was more qualified to measure her daughter's mouth than her own orthodontist.

Dr. Perlmutter responded that he was a practicing orthodontist for almost 50 years, he has been teaching at Tufts University Dental School for 43 years, and has been reviewing these prior authorizations for many, many years. While the appellant's bite would be improved by orthodontic treatment, it was not considered a physically handicapping bite. It was also explained to the appellant that with her next prior authorization request, she could submit a medical necessity narrative from a licensed clinician, such as a speech therapist, regarding the appellant's lisp.

Findings of Fact

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

1. On December 9, 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 and calculated an overall score of 22 (Exhibit 4).
3. The provider did not find any of the conditions that warrant automatic approval of comprehensive orthodontic treatment and did not include a medical necessity narrative (Exhibit 4).
4. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 19 (Exhibit 4).

5. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more (Testimony).
6. On December 9, 2021, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
7. On December 22, 2021, the appellant filed a timely appeal of the denial (Exhibit 2).
8. At hearing, a MassHealth orthodontic consultant reviewed the provider's paperwork, photographs, and x-rays and found an HLD score of 19 (Testimony).
9. The appellant's HLD score is below 22.
10. 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 for a member 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 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.

Appendix D of the Dental Manual also includes the instructions for submitting a medical necessity narrative. It states the following:

Providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative and supporting documentation, where applicable. The narrative must establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate

- i. a severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- ii. a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- iii. a diagnosed nutritional deficiency and/or substantiated inability to eat or chew caused by the patient's malocclusion;
- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or
- v. a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

The medical necessity narrative must clearly demonstrate why comprehensive orthodontic treatment is medically necessary for the patient. If any part of the requesting provider's justification of medical necessity involves a mental, emotional, or behavioral condition...that would typically require the diagnosis, opinion, or expertise of a licensed clinician other than the requesting provider, then the narrative and any attached documentation must

- i. clearly identify the appropriately qualified and licensed clinician(s) who furnished the diagnosis or opinion substantiating the condition or pathology (e.g. general dentist, oral surgeon, physician, clinical psychologist, clinical dietician, speech therapist);
- ii. describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- iii. state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- iv. document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);
- v. discuss any treatments for the patient's condition (other than the comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- vi. provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

The appellant's provider found an overall HLD score of 22. After reviewing the provider's submission, MassHealth found an HLD score of 19. Upon review of the prior authorization documents, at hearing a different orthodontic consultant found an HLD score of 19.

The main difference between the appellant's provider's score and that of Dr. Perlmutter's and DentaQuest's is the measurement of the labio-lingual spread and the overbite. He explained that for the labio-lingual spread one looks at the worst tooth that is out of position and then measures how many millimeters it will take to get it into position. He measured that to be 2mm, DentaQuest measured it at 3mm, and the appellant's provider measured it at 4mm. Even if he were to use DentaQuest's higher measurement, the HLD score would still be below 22 points. He also felt that the appellant's provider over-estimated the appellant's overbite. Dr. Perlmutter and DentaQuest both determined it was 4mm, while the appellant's orthodontist stated it was 5mm. Dr. Perlmutter was a practicing orthodontist for almost 50 years, has been teaching at Tufts University Dental School for 43 years, and has been reviewing these prior authorizations for many, many years. Dr. Perlmutter's measurements are credible and his determination of the overall HLD score is consistent with the evidence, which shows that the appellant does not have a handicapping malocclusion. Dr. Perlmutter acknowledged that the appellant has a high HLD score and recommended she be re-examined six months from the date of her more recent evaluation, especially because her teeth are still coming into place and shifting.

The appellant's mother's testimony about her daughter's lisp is insufficient to establish medical necessity for comprehensive orthodontic treatment. A medical necessity narrative is needed to establish that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate a diagnosed speech or language pathology caused by the patient's malocclusion.

As the appellant does not qualify for comprehensive orthodontic treatment under the HLD guidelines, MassHealth was correct in determining that she 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.

Alexandra Shube
Hearing Officer
Board of Hearings

cc: MassHealth Representative: DentaQuest 2, MA