

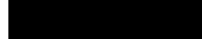
# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2202794
<b>Decision Date:</b>	7/12/2022	<b>Hearing Date:</b>	05/16/22
<b>Hearing Officer:</b>	C. Groff		

**Appearance for Appellant:**

, Mother

**Appearance for MassHealth:**

Carl Perlmutter, D.M.D.



*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; Orthodontic Services
<b>Decision Date:</b>	7/12/2022	<b>Hearing Date:</b>	
<b>MassHealth's Rep.:</b>	Carl Perlmutter, DMD	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Board of Hearings (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 March 17, 2022, MassHealth denied Appellant's prior authorization request for comprehensive orthodontic treatment. See Exhibits 1 and 4. Appellant filed a timely appeal on April 13, 2022. See 130 CMR 610.015(B) and Exhibit 2. Denial of assistance is valid grounds for appeal. See 130 CMR 610.032.

## Action Taken by MassHealth

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

## Issue

The appeal issue is whether MassHealth correctly denied Appellant's prior authorization request for comprehensive orthodontic treatment.

## Summary of Evidence

At hearing, MassHealth was represented by Dr. Carl Perlmutter, D.M.D. a licensed orthodontist consultant from DentaQuest. DentaQuest is the third-party contractor that administers and manages the MassHealth's dental program. According to testimony and documentary evidence presented by the MassHealth representative: Appellant is a minor child and MassHealth recipient. Appellant's orthodontic provider sent MassHealth a prior authorization request on March 3, 2022 seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670).<sup>1</sup> See Exh. 4. On March 17, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment. See id. at 4-6.

Dr. Perlmutter explained that MassHealth will only authorize coverage for comprehensive orthodontic treatment when there is evidence of a handicapping malocclusion. MassHealth uses a Handicapping Labio-Lingual Deviations (HLD) Index to determine whether a handicapping malocclusion exists. the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score representing the degree to which a case deviates from normal alignment and occlusion. MassHealth does not consider a condition to be "physically handicapping" unless the individual's HLD score is 22 points or higher. In addition, the HLD index allows the provider to indicate if the member has one of several enumerated "auto qualifying conditions," which, if present, would constitute an alternative basis to render a finding that the condition is physically handicapping.

Dr. Perlmutter testified that according to the prior authorization request, Appellant's provider reported an HLD score of 24 and indicated that Appellant had a an "auto-qualifying condition," specifically an "overjet greater than 9mm." However, when MassHealth reviewed the PA request, which included Appellant's dental records, oral photographs, x-rays, and written information, the MassHealth dental consultant calculated an HLD score of 18 and an overjet score of 5mm. Dr. Perlmutter further testified that he conducted a secondary review of the dental records and calculated an HLD score of 19 and an overjet measurement of 6mm. Because both MassHealth reviews concluded that there was no evidence Appellant had an "auto qualifying" condition (i.e. an overjet over 9mm) or an HLD score greater than or equal to 22, the request for comprehensive orthodontic treatment was denied.

Appellant's mother appeared at the hearing and argued that Appellant has a significant overbite, which causes a lisp and, if left untreated, will result in more severe jaw problems and a need for jaw surgery. Appellant's mother explained that she does not understand why the treatment is not authorized when the providing orthodontist found upon examination, to be necessary. Her other

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<sup>1</sup> Also on March 3, 2022, Appellant's provider submitted a separate PA request seeking approval of interceptive orthodontic treatment of the transitional dentition (D8060). On March 7, 2022, MassHealth denied the request because it was a non-covered service. Appellant clarified that she specifically sought to dispute the denial of comprehensive orthodontic treatment, as indicated in MassHealth's March 17, 2022 notice. Appellant did not dispute the March 7<sup>th</sup> denial and it was explained that the underlying request may have been submitted in error with an incorrect procedure code.

son, Appellant's brother, had braces covered by MassHealth even though his teeth were not nearly as severe as Appellant's. In addition, Appellant's provider informed her that MassHealth had updated the requirements so that an overjet needs only to be measured at 4mm or more to constitute an "auto qualifying" condition. Therefore, Appellant should qualify for braces.

## Findings of Fact

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

1. Appellant is a minor child and MassHealth recipient.
2. On March 3, 2022, Appellant's orthodontic provider sent MassHealth a prior authorization request seeking coverage for comprehensive orthodontic treatment (D8080) with periodic orthodontic treatment visits (D8670).
3. In the PA request, the provider reported a finding that Appellant had a total HLD score of 24 and an overjet that measured greater than 9mm.
4. In reviewing the PA request, which included Appellant's dental records, oral photographs, x-rays, and written information, a MassHealth dental consultant calculated an HLD score of 18 and an overjet score of 5mm.
5. On March 17, 2022, MassHealth denied the request based on a finding that the documentation submitted by the provider failed to demonstrate medical necessity for the proposed treatment.
6. At hearing, the MassHealth representative – a board certified orthodontist - conducted a secondary review of Appellant's dental records and calculated an HLD score of 19 and an overjet measurement of 6mm.

## Analysis and Conclusions of Law

MassHealth regulations governing coverage of orthodontic treatment states, in relevant part, the following:

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 clinical standards for medical necessity as described in Appendix D of the *Dental Manual*.

See 130 CMR 420.431(C)(3) (emphasis added).

Appendix D of the *Dental Manual* is the Authorization Form for Comprehensive Orthodontic Treatment and consists of the "Handicapping Labio-Lingual Deviations" (HLD) Index. The

HLD is described as a quantitative, objective method for measuring malocclusion. See Exh. 4. 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 handicapping malocclusion. See *Dental Manual*, Appendix D. Additionally, MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, if there is evidence that the member has an “auto-qualifying” condition. Id. Specifically, the HLD Index lists 13 separate “auto-qualifying conditions” one of which is having an “overjet greater than 9mm.”<sup>2</sup> See id. The HLD form explicitly states that MassHealth will authorize treatment only “for cases with verified auto-qualifiers or verified scores of 22 and above.” See id.

Alternatively, providers may seek comprehensive orthodontic treatment by submitting a “medical necessity narrative” that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.<sup>3</sup>

In this case, Appellant’s provider sought coverage for orthodontic treatment on the following two bases: 1) that Appellant had an auto-qualifying condition, i.e. an overjet greater than 9mm, and 2) Appellant had an HLD score of 24. Upon reviewing the PA request, MassHealth calculated Appellant’s overjet at only 5mm and found his total HLD score to be 18. As part of the fair hearing process, a different MassHealth orthodontic consultant – Dr. Perlmutter - performed a secondary review of Appellant’s records. Dr. Perlmutter affirmed MassHealth’s initial determination that

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<sup>2</sup> The information herein reflects the current MassHealth regulations and HLD Index that were last updated and put into effect on October 15, 2021. See *MassHealth Transmittal Letter DEN-111* (Oct. 2021). Although Appellant correctly noted that MassHealth recently revised the HLD Index, there is no evidence to support her argument that such revisions reduced the measurement for an overjet to 4mm. The current version of the HLD index, which was in effect at all relevant times, requires an overjet to be 9mm to constitute an “auto qualifying condition.”

<sup>3</sup> Under Appendix D of the Dental Manual the “medical necessity narrative” must further show that the treatment will 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 a 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; a nutritional deficiency; a speech or language pathology; or the presence of any other 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: (1) 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 dietitian, speech therapist); (2) describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment; (3) state the specific diagnosis or other opinion of the patient’s condition furnished by the identified clinician(s); (4) document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made); (5) discuss any treatments for the patient’s condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and (6) provide any other relevant information from the clinician(s) that supports the requesting provider’s justification of the medical necessity of comprehensive orthodontic treatment.

Appellant did not have a handicapping condition to warrant coverage for orthodontic treatment at this time. Specifically, Dr. Perlmutter measured an HLD score of 19 and an overjet of 6mm.

While Appellant's mother provided credible evidence indicating Appellant does indeed have an overbite, the question on appeal is whether the condition is so severe that it amounts to a "handicapping malocclusion." See 130 CMR 420.431(C)(3). According to Appendix D, the condition becomes "handicapping" when the overjet is "verified" to be greater than 9mm. See Exh. 4, p. 9. Appellant's treatment records, including oral photographs and x-rays were reviewed multiple times by two separate orthodontic consultants. In each instance, the reviewing orthodontists concurred that the overjet did not reach a measurement of 9mm, and that Appellant's total HLD score was less than the required 22 points. Ultimately, MassHealth could not "verify" the provider's finding that Appellant had a "handicapping malocclusion." Absent such evidence, Appellant has not demonstrated that MassHealth erred in denying the requested treatment.<sup>4</sup> See 130 CMR 420.431(C)(3).

Based on the foregoing, 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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Casey Groff, Esq.  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA

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<sup>4</sup> Appellant can have his provider submit a new PA request to MassHealth every six-months upon re-examination.