

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



**Appeal Decision:** Denied

**Appeal Number:** 2202929

**Decision Date:** 6/14/2022

**Hearing Date:** 05/25/2022

**Hearing Officer:** Rebecca Brochstein

**Appearances for Appellant:**

 Appellant's Mother

**Appearances for MassHealth:**

Dr. Harold Kaplan, Orthodontic Consultant



*Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of Medicaid  
Board of Hearings  
100 Hancock Street  
Quincy, MA 02171*

## APPEAL DECISION

<b>Appeal Decision:</b>	Denied	<b>Issue:</b>	Prior Approval for Orthodonture
<b>Decision Date:</b>	6/14/2022	<b>Hearing Date:</b>	05/25/2022
<b>MassHealth Rep.:</b>	Dr. Harold Kaplan	<b>Appellant Rep.:</b>	Appellant's Mother
<b>Hearing Location:</b>	Board of Hearings (Remote)		

### Authority

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

### Jurisdiction

Through a notice dated March 25, 2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (Exhibit 1). The appellant filed a timely appeal on April 19, 2022 (130 CMR 610.015(B); Exhibit 2). Denial of a request for prior approval is a valid basis for appeal (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(C), in determining that the appellant is ineligible for comprehensive orthodontic treatment.

## Summary of Evidence

MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor. The evidence indicates that the appellant's provider submitted a prior authorization request for comprehensive orthodontic treatment, together with X-rays and photographs, on March 23, 2022. As required, the provider completed the Handicapping Labio-Lingual Deviations (HLD) Form, which requires a total score of 22 or higher for approval.<sup>1</sup> The provider's HLD Form indicates a total score of 30, as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: No Mandible: No	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	20	1	20
Posterior Unilateral Crossbite	n/a	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>30</b>

As part of the HLD assessment, the provider also indicated that the appellant has an impinging overbite as well as spacing of at least 10 mm in a single arch, either of which, if present, would automatically qualify her for approval. See Exhibit 4.

Dr. Kaplan testified that when DentaQuest initially evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 17. The DentaQuest HLD Form reflects the following scores:

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<sup>1</sup> The form also includes space for providers to indicate whether, regardless of score, a patient has one of the thirteen conditions (described below) that would result in automatic approval, and/or to provide a narrative to explain why orthodontic treatment is otherwise medically necessary. The provider in this case alleged that the appellant has an auto-qualifying condition but did not provide a medical necessity narrative.

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	3	1	3
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: No Mandible: No	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	9	1	9
Posterior Unilateral Crossbite	n/a	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>17</b>

Because it found an HLD score below the threshold of 22 – and did not agree that the appellant had an impinging overbite or spacing of at least 10 mm in either arch – MassHealth denied the appellant’s prior authorization request on March 25, 2022. See Exhibit 1.

In preparation for hearing on May 25, 2022, Dr. Kaplan completed an HLD Form based on a review of the records. He determined that the appellant’s overall HLD score was 20, calculated as follows:

Conditions Observed	Raw Score	Multiplier	Weighted Score
Overjet in mm	5	1	5
Overbite in mm	5	1	5
Mandibular Protrusion in mm	0	5	0
Anterior Open Bite in mm	0	4	0
Ectopic Eruption (# of teeth, excluding third molars)	0	3	0
Anterior Crowding	Maxilla: No Mandible: No	Flat score of 5 for each	0
Labio-Lingual Spread, in mm (anterior spacing)	10	1	10
Posterior Unilateral Crossbite	n/a	Flat score of 4	0
Posterior Impactions or congenitally missing posterior teeth	0	3	0
<b>Total HLD Score</b>			<b>20</b>

Dr. Kaplan testified that while the appellant has a deep bite, there is no indication that the lower front teeth are pushing into the gum tissue in the palate behind the upper front teeth. As to the spacing, he testified that he measured 7 mm in the upper arch and 3 mm in the lower arch, for a total of 10 mm.; however, he testified, the guidelines require that there be a total of 10 mm. of spacing in a *single* arch. Dr. Kaplan stated that because the appellant's HLD score is below the threshold of 22 and there is neither an impinging overbite nor spacing of at least 10 mm in a single arch, he could not reverse the denial of the prior authorization request.

The appellant's mother appeared telephonically and testified through an interpreter. She testified that the appellant is having problems with her mouth and is not able to close it all the way due to the positioning of her teeth. She stated that the appellant does not want the other kids to see her teeth, which are getting "worse and worse." The mother testified that she does not have the funds to cover the treatment herself.

### **Findings of Fact**

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

1. On March 23, 2022, the appellant's orthodontic provider submitted a prior authorization request for comprehensive orthodontic treatment to MassHealth.
2. The provider completed a Handicapping Labio-Lingual Deviations (HLD) Form for the appellant, finding an overall score of 30.
3. The provider also alleged that the appellant has an impinging overbite and spacing of 10 mm in a single arch. If verified, either would result in automatic approval.
4. When DentaQuest initially evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 17. It did not find an impinging overbite or spacing of at least 10 mm in a single arch.
5. On March 25, 2022, MassHealth notified the appellant that the prior authorization request had been denied.
6. On April 19, 2022, the appellant filed a timely appeal of the denial.
7. In preparation for hearing on May 25, 2022, a MassHealth orthodontic consultant reviewed the provider's paperwork, finding an HLD score of 20. He found no impinging overbite or spacing of at least 10 mm.
8. The appellant's HLD score is below the threshold score of 22.
9. The appellant's overbite is not impinging, as there is no evidence of occlusal contact into the palatal tissue behind the upper front teeth.

10. The appellant does not have spacing of at least 10 mm in either the maxillary or mandibular arch.
11. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (cleft lip, cleft palate, or other cranio-facial anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated, excluding third molars; severe traumatic deviations; overjet greater than 9 mm; reverse overjet greater than 3.5 mm; crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding 3rd molars; anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth, excluding third molars, of at least one tooth per quadrant; lateral open bite of 2 mm or more, of 4 or more teeth per arch; and anterior open bite of 2 mm or more, of 4 or more teeth per arch).
12. The appellant has not established that the service is otherwise medically necessary based on a severe deviation affecting the patient's mouth and/or underlying dentofacial structures; a diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion; a diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion; a diagnosed speech or language pathology caused by the patient's malocclusion; or a condition in which the overall severity or impact of the patient's malocclusion is not otherwise apparent.

### **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 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*.

Appendix D of the Dental Manual is the "MassHealth Handicapping Labio-Lingual Deviations Index" (HLD), which is described as a quantitative, objective method for measuring PA requests for comprehensive orthodontic treatment. The HLD allows for the identification of certain auto-qualifying conditions and provides a single score, based on a series of measurements, which represent the presence, absence, and degree of handicap. MassHealth has determined that a score of 22 or higher signifies a handicapping malocclusion.

MassHealth will also approve a prior authorization request, without regard for the HLD numerical score, in two other circumstances: First, MassHealth will approve a request if there is

evidence of one or more auto-qualifying conditions: Cleft lip, cleft palate, or other cranio-facial anomaly; impinging overbite with evidence of occlusal contact into the opposing soft tissue; impactions where eruption is impeded but extraction is not indicated, excluding third molars; severe traumatic deviations; overjet greater than 9 mm; reverse overjet greater than 3.5 mm, crowding of 10 mm or more in either the maxillary or mandibular arch, excluding third molars; spacing of 10 mm or more, in either the maxillary or mandibular arch, excluding 3rd molars; anterior crossbite of 3 or more maxillary teeth per arch; posterior crossbite of 3 or more maxillary teeth per arch; two or more congenitally missing teeth, excluding third molars, of at least one tooth per quadrant; lateral open bite of 2 mm or more, of 4 or more teeth per arch; and anterior open bite of 2 mm or more, of 4 or more teeth per arch.

Second, providers may establish that comprehensive orthodontic treatment is medically necessary by submitting a medical necessity narrative that establishes that comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion, including to correct or significantly ameliorate one of the following:

- A severe deviation affecting the patient's mouth and/or underlying dentofacial structures;
- A diagnosed mental, emotional, or behavioral condition caused by the patient's malocclusion;
- A diagnosed nutritional deficiency and/or a substantiated inability to eat or chew caused by the patient's malocclusion;
- A diagnosed speech or language pathology caused by the patient's malocclusion; or
- 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:

- 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);
- describe the nature and extent of the identified clinician(s) involvement and interaction with the patient, including dates of treatment;
- state the specific diagnosis or other opinion of the patient's condition furnished by the identified clinician(s);
- document the recommendation by the clinician(s) to seek orthodontic evaluation or treatment (if such a recommendation was made);

- discuss any treatments for the patient's condition (other than comprehensive orthodontic treatment) considered or attempted by the clinician(s); and
- provide any other relevant information from the clinician(s) that supports the requesting provider's justification of the medical necessity of comprehensive orthodontic treatment.

In this case, the appellant's provider found an overall HLD score of 30, and also alleged that he had two conditions (impinging overbite and spacing exceeding 10 mm) that would result in automatic approval regardless of the score. After reviewing the documents included with the provider's submission, MassHealth calculated a score of 17 and found he had neither an impinging overbite nor spacing exceeding 10 mm. Upon review of the prior authorization documents, a different orthodontic consultant for MassHealth found the HLD score was 20, also finding no impinging overbite or spacing of more than 10 mm in either the maxillary or mandibular arch.

After reviewing the prior authorization documents, I am persuaded by MassHealth's determination that the HLD score is below 22. The provider gave a total of 20 points for spacing, but the photographs in the record do not show spacing close to that magnitude. The pictures are much more consistent with the 9 or 10 mm measurement found by MassHealth. With this adjustment, the appellant's total HLD score is below the threshold of 22.

For the same reason, the appellant does not meet the criteria for the spacing auto-qualifier. To qualify for treatment based on spacing alone, there must be at least 10 mm of spacing in *either the maxillary or mandibular arch*. As Dr. Kaplan testified, the appellant does not have spacing of 10 mm in a single arch; rather, the score of 10 (at best) represents the amount of *combined* spacing in the two arches. The record also supports MassHealth's determination that the appellant does not automatically qualify for treatment based on an impinging overbite. The photographs show that the gum tissue behind the upper front teeth is intact, with no evidence of occlusal contact.

As such, there is no evidence that the appellant has a condition that warrants automatic approval without regard for the HLD numerical score. Further, the provider did not allege, nor did MassHealth find, that treatment is otherwise medically necessary as set forth in Appendix D of the Dental Manual. Accordingly, the appellant has not demonstrated that she meets the MassHealth criteria for approval of comprehensive orthodontic treatment. MassHealth's denial of the prior authorization request was proper.

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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Rebecca Brochstein  
Hearing Officer  
Board of Hearings

cc: DentaQuest