

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2204165
<b>Decision Date:</b>	8/2/2022	<b>Hearing Date:</b>	07/11/2022
<b>Hearing Officer:</b>	Alexis Demirjian		

**Appearance for Appellant:**  
[Redacted] Mother of 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>	Orthodontics
<b>Decision Date:</b>	8/2/2022	<b>Hearing Date:</b>	07/11/2022
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan	<b>Appellant's Rep.:</b>	[REDACTED]
<b>Hearing Location:</b>	Quincy Harbor South 2 Remote	<b>Aid Pending:</b>	No

## Authority

This hearing was conducted pursuant to Massachusetts General Laws Chapters 119E and 30A, and the rules and regulations promulgated thereunder.

## Jurisdiction<sup>1</sup>

Through a notice dated May 13, 2022, MassHealth informed the appellant that it denied her request for prior authorization of comprehensive orthodontic treatment (Exhibit 2). The appellant filed a timely appeal on May 27, 2022, and as a minor appellant, was represented by her mother in these proceedings (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

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<sup>1</sup> In MassHealth Eligibility Operations Memo (EOM) 20-09 dated April 7, 2020, MassHealth states the following:

- Regarding Fair Hearings during the COVID-19 outbreak national emergency, and through the end of month in which such national emergency period ends:
  - All appeal hearings will be telephonic; and
  - Individuals will have up to 120 days, instead of the standard 30 days, to request a fair hearing for member eligibility-related concerns.

Did MassHealth correctly determined that the appellant is not eligible for comprehensive orthodontic treatment to pursuant to 130 CMR 420.431(C)?

## Summary of Evidence

The appellant is a minor MassHealth member whose mother appeared at hearing via telephone. MassHealth was represented at hearing by an orthodontic consultant, from DentaQuest, the MassHealth dental contractor. The MassHealth orthodontic consultant is an orthodontist licensed in Massachusetts.

The MassHealth orthodontic consultant testified that the appellant's provider requested prior authorization for comprehensive orthodontic treatment on May 11, 2022. The representative stated that MassHealth only provides coverage for comprehensive orthodontic treatment when there is a severe and handicapping malocclusion.

He testified that the appellant's orthodontic provider submitted a prior authorization request on the appellant's behalf based on an examination performed on May 11, 2022. The appellant's orthodontic provider submitted oral photographs and written information with the request for the prior authorization. This submission was reviewed by the MassHealth orthodontic consultation. The MassHealth orthodontic consultant then reviewed and analyzed the materials using the Handicapping Labio-Lingual Deviations (HLD) Index. The HLD Index is used to make an objective determination of whether the appellant has a severe and handicapping malocclusion.

The MassHealth orthodontic consultant testified that the HLD Index uses objective measurements taken from the subject's teeth to generate an overall numeric score, or to find an auto-qualifying condition. A severe and handicapping malocclusion typically reflects a minimum cumulative score of 22 or an auto-qualifying condition. MassHealth submitted into evidence: HLD MassHealth Form, the HLD Index (Exhibit 3).

The MassHealth orthodontic consultant testified that according to the prior authorization request, the appellant's orthodontic provider reported that the appellant had an HLD score of 19, which did not reach the minimum score of 22 which is required for MassHealth payment of the orthodonture. The provider noted that there was no auto-qualifying situation indicated on the HLD Index form and no additional "medical necessity" documentation included with the request.

The MassHealth orthodontic consultant testified that he reviewed the materials that were provided to MassHealth with the prior authorization request from the appellant's orthodontist. According to the photographs and X-rays, the MassHealth orthodontist consultant testified that his review confirmed the appellant's provider's conclusion that the appellant's HLD score did not reach the score of 22 required for a determination that the appellant had a severe and handicapping malocclusion. He further testified that there was no evidence provided to show that a different result is warranted. Accordingly, the MassHealth orthodontic consultant upheld MassHealth's denial of the request for comprehensive orthodontic services.

The appellant's mother appeared by telephone and testified that the appellant's orthodontist opined that the appellant needs orthodontic treatment.

## **Findings of Fact**

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

1. The appellant is under 21 years of age (Testimony).
2. On May 11, 2022, the appellant's orthodontic provider requested prior authorization for comprehensive orthodontic treatment (Testimony, Exhibit 3).
3. On May 13, 2022, MassHealth denied the appellant's prior authorization request (Exhibit 2).
4. On May 27, 2022, a timely fair hearing request was filed on the appellant's behalf (Exhibit 2).
5. MassHealth provides coverage for comprehensive orthodontic treatment only when there is a severe and handicapping malocclusion.
6. MassHealth employs a system of comparative measurements known as the HLD Index as a determinant of a severe and handicapping malocclusion.
7. An automatic qualifying condition on the HLD Index is a severe and handicapping malocclusion.
8. A HLD Index score of 22 or higher denotes a severe and handicapping malocclusion.
9. The appellant's orthodontic provider provided an HLD score of 19, based on measurements he took of the appellant's malocclusion.
10. The appellant's orthodontic provider did not allege that the appellant had an automatic qualifying condition, nor was a medical necessity narrative submitted with the prior authorization request.
11. Using measurements taken from the appellant's oral photographs, X-rays and other submitted materials, the MassHealth representative, a licensed orthodontist, determined that the appellant did not have a an HLD score of 22 or above or an automatic qualifying condition.
12. There was no other documentation of medical necessity for the comprehensive orthodontic treatment provided to MassHealth.

13. The MassHealth orthodontist consultant concluded that the appellant does not have a severe and handicapping malocclusion.
14. Appellant's orthodontists checked "no" when asked if he was submitting a medical necessity narrative with the prior authorization request.

## **Analysis and Conclusions of Law**

Regulation 130 CMR 420.431(C) states, in relevant part, as follows:

The MassHealth agency pays for comprehensive orthodontic treatment only once per member under age 21 per lifetime and 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.<sup>2</sup>

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).)

When requesting prior authorization for comprehensive orthodontic treatment, the provider submits, among other things, a completed HLD Index recording form which documents the results of applying the clinical standards described in Appendix D of the Dental Manual. In order for MassHealth to pay for orthodontic treatment, the appellant's malocclusion must be severe and handicapping as indicated by an automatic qualifier on the HLD index or a minimum HLD index score of 22.

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.

In this case, the appellant's orthodontist calculated an overall HLD Index score of 19, below the threshold of 22 necessary for MassHealth payment for comprehensive orthodontics. The

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<sup>2</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 June 2, 2022.) 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 August 1, 2022.)

MassHealth representative testified that he agreed with the appellant's provider in that the HLD score did not reach or exceed a 22. In addition, he testified credibly that no other information was provided to show medical necessity. The appellant's mother did not dispute any of the testimony, except to say that the appellant would benefit from orthodonture. There is nothing in the hearing record to show that the appellant's current situation meets MassHealth criteria for payment of braces. 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.

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Alexis Demirjian  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 2, MA