

# Office of Medicaid BOARD OF HEARINGS

**Appellant Name and Address:**



<b>Appeal Decision:</b>	Denied	<b>Appeal Number:</b>	2205149
<b>Decision Date:</b>	9/26/2022	<b>Hearing Date:</b>	08/17/2022
<b>Hearing Officer:</b>	Marc Tonaszuck		

**Appearance for Appellant:**  
[Redacted], Mother of Minor Appellant

**Appearance for MassHealth:**  
Dr. Harold Kaplan, DentaQuest

**Interpreter:**  
Spanish



*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>	9/26/2022	<b>Hearing Date:</b>	08/17/2022
<b>MassHealth's Rep.:</b>	Dr. Harold Kaplan, DentaQuest	<b>Appellant's Rep.:</b>	Mother
<b>Hearing Location:</b>	Quincy Harbor South		

## 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 06/30/2022, MassHealth denied the appellant's request for prior authorization of comprehensive orthodontic treatment (see 130 CMR 420.431 and Exhibit 4). The appellant filed this appeal in a timely manner on 07/08/2022 (see 130 CMR 610.015(B) and Exhibit 2)<sup>1</sup>. Denial of a request for prior approval is a valid basis for appeal (see 130 CMR 610.032).

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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.

## **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**

The appellant is a minor MassHealth member whose mother appeared at hearing as the appeal representative via telephone. MassHealth was represented at hearing by Dr. Harold Kaplan, an orthodontic consultant from DentaQuest, the MassHealth dental contractor.

The appellant's provider submitted a prior authorization (PA) request for comprehensive orthodontic treatment, including photographs and X-rays on 06/28/2022. 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 indicated that the appellant has an HLD score of 21, which does not qualify as a malocclusion that is severe and handicapping; however, the appellant's orthodontist identified an automatic qualifying condition. Specifically, the treating orthodontist indicated on the HLD Index score sheet that the appellant has an overjet greater than 9 mm, which if verified, would qualify the appellant for approval of comprehensive orthodontic treatment. The treating orthodontist indicated that he did not include a medical necessity narrative with the PA request.

When DentaQuest evaluated this prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 11. DentaQuest did not find an automatic qualifying condition, including evidence that the appellant has an overjet greater than 9 mm. Because it found an HLD score below the threshold of 22 and no autoqualifier, MassHealth denied the appellant's prior authorization request on 06/30/2022.

At hearing, Dr. Kaplan testified that he agreed with the treating orthodontist that the appellant's HLD Index score did not reach 22 or above. He further testified that he examined the photographs and X-rays included with the PA request and determined that the appellant indeed has an overjet; however, it is 7 mm. Because the overjet is not 9 mm or greater, the appellant does not meet this category of an automatic qualifying condition. Additionally, the appellant meets none of the other automatic qualifying conditions. Dr. Kaplan concluded that the appellant's malocclusion is not severe and handicapping as

defined by MassHealth and therefore, the appellant does not meet the criteria necessary for MassHealth payment of comprehensive orthodontic services.

The appellant's mother testified with the assistance of a Spanish-language interpreter. She argued that the appellant "sucks on her finger," and as a result her teeth "stick out in front, and her teeth "are not normal." The mother stated that the appellant's orthodontist recommended a device to correct her condition.

Dr. Kaplan responded that even though the appellant would benefit from comprehensive orthodontic treatment, her HLD score did not reach the level to which MassHealth will pay for the services.

## **Findings of Fact**

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

1. On 06/28/2022, 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, calculated an HLD score of 21 points.
3. The appellant's orthodontist indicated that the appellant has an automatic qualifying condition, specifically she has an overjet greater than 9 mm (Exhibit 4).
4. The provider did not include a medical necessity narrative with the prior authorization request (Exhibit 4).
5. When DentaQuest evaluated the prior authorization request on behalf of MassHealth, its orthodontists determined that the appellant had an HLD score of 11, with no automatic qualifying condition (Exhibit 4).
6. MassHealth approves requests for comprehensive orthodontic treatment when the member has an HLD score of 22 or more or when the member has an automatic qualifying condition (Testimony).
7. On 06/30/2022, MassHealth notified the appellant that the prior authorization request had been denied (Exhibits 1 and 4).
8. On 07/08/2022, the appellant filed a timely appeal of the denial (Exhibit 2).
9. On 08/07/2022, a fair hearing took place before the Board of Hearings.
9. At the fair hearing, a MassHealth orthodontic consultant reviewed the provider's

paperwork, photographs, and X-rays and found an HLD score less than 22 (Testimony).

10. The MassHealth orthodontist testified that the appellant has an overjet; however, it is 7 mm (Testimony).

11. The appellant's HLD score is below 22.

12. The appellant does not have any of the conditions that warrant automatic approval of comprehensive orthodontic treatment (e.g., 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 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 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, impactions, severe traumatic deviation, overjet greater than 9 mm, reverse overjet greater than 3.5 mm, crowding or spacing greater than 10 mm, anterior or posterior crossbite of three or more teeth on either arch, two or more congenitally missing teeth, or lateral open bite greater than 2 mm of four or more teeth.

The appellant's provider documented that the appellant has an HLD score of 21, which does not meet the score of 22 necessary for MassHealth to approve a PA request for comprehensive orthodontic treatment. However, the treating orthodontist indicated that the appellant has an automatic qualifying condition; specifically an overjet greater than 9 mm.

Upon receipt of the PA request and after reviewing the provider's submission, MassHealth

found an HLD score of 11 and no automatic qualifying condition. The PA request was therefore denied.

At the fair hearing, a different orthodontist reviewed the PA request, photographs, and X-rays. He testified that he agreed with the treating orthodontist that the appellant's HLD score did not meet the 22 necessary for MassHealth to pay for the comprehensive orthodontic services. He further testified that he did not agree with the treating orthodontist that the appellant has an automatic qualifying condition. Dr. Kaplan testified that the appellant has an overjet; but that it measures 7 mm, not 9 mm, as is necessary for a member to meet this automatic qualifying condition criteria. Therefore, she does not meet this or any other automatic qualifying condition.

The main difference between the appellant's provider's score and that of Dr. Kaplan's score are the scoring of the automatic qualifying condition of the overjet. In order for the overjet to meet the requirements of the automatic qualifier, it must measure more than 9 mm. The appellant's orthodontist checked off that the appellant's overjet is more than 9 mm. MassHealth testified that it is 7 mm. Dr. Kaplan explained his measurement to the appellant's mother and to the hearing officer, referencing the photographs of the appellant's teeth that were included with the PA request.

Dr. Kaplan's measurement is supported by the photographs and the X-rays. Dr. Kaplan, a licensed orthodontist, demonstrated a familiarity with the HLD Index. His measurements are credible and his determination of the overall HLD score is consistent with the evidence. Moreover, he was available to be questioned by the hearing officer and cross-examined by the appellant's representative.

The appellant's mother testified credibly that the appellant would benefit from orthodonture; however, she was unable to show that the appellant met the requirements set out by MassHealth for approval for payment of the orthodonture. Accordingly, MassHealth's testimony is given greater weight. 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, MassHealth correctly denied this request for comprehensive orthodontic services and 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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Marc Tonaszuck  
Hearing Officer  
Board of Hearings

cc:  
MassHealth Representative: DentaQuest 1, MA