

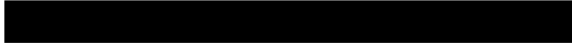
# Office of Medicaid BOARD OF HEARINGS

Appellant Name and Address:



Appeal Decision:	Denied	Appeal Number:	2205647
Decision Date:	10/19/2022	Hearing Date:	08/31/2022
Hearing Officer:	Scott Bernard		

Appearance for Appellant:




Appearance for MassHealth:

Dr. Carl Perlmutter *via* telephone



*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>	10/19/2022	<b>Hearing Date:</b>	08/31/2022
<b>MassHealth's Rep.:</b>	Dr. Carl Perlmutter	<b>Appellant's Rep.:</b>	
<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 June 9, 2022, denied the appellant's PA request for comprehensive orthodontic treatment because the submitted documentation did not support the medical necessity that treatment treatment. (See 130 CMR 420.431 and Exhibit (Ex.) 1; Ex. 5, pp. 3-5). The appellant's mother filed this appeal in a timely manner by telephone on July 28, 2022. (See 130 CMR 610.015(B) and Ex. 2). Denial of assistance is valid grounds for appeal. (See 130 CMR 610.032).

## Action Taken by MassHealth

MassHealth denied the appellant's PA request for comprehensive orthodontic treatment.

## Issue

The appeal issue is whether MassHealth was correct, pursuant to 130 CMR 420.431, in denying comprehensive orthodontic treatment.

## Summary of Evidence

The MassHealth representative, a licensed orthodontist testified that MassHealth normally does not pay for orthodontic treatment. MassHealth will pay when the member's bite is considered physically handicapping, which means that the bite is functionally so bad that the member is unable to properly chew food and get nutrition. He emphasized that this meant that MassHealth focuses on the function of the bite and not the appearance of the teeth. In order to make this assessment, MassHealth measures nine different characteristics of the bite. If the sum of the measurements equal or exceed 22, the bite is

considered handicapping and the treatment will be approved. There are also 13 other conditions, which are individually considered severe enough by themselves that having any one of them will automatically qualify the member for comprehensive orthodontic treatment, which is why they are called auto-qualifiers.<sup>1</sup>

The appellant is an individual under the age of 21. (Ex 5, p. 3). The appellant's treating orthodontist submitted a PA request for comprehensive orthodontic treatment, including the Handicapping Labio-Lingual Deviations (HLD) Index (HLD form), other relevant forms, photographs, and x-rays on June 8, 2022. (Ex. 5, pp. 3, 8-15). In the HLD form the treating orthodontist indicated that the appellant had two auto-qualifying conditions: an anterior crossbite of 3 or more maxillary teeth per arch and an anterior open bite: 2 mm or more; of 4 or more teeth per arch. (Ex. 5, p. 9). The treating orthodontist also determined that the appellant had an HLD score of 22. (Ex. 5, p. 9). An orthodontist working for DentaQuest, the company that oversees MassHealth's Dental Program, reviewed the materials submitted by the appellant's orthodontist. Based on this information, the DentaQuest orthodontist determined that the appellant did not have any auto-qualifying conditions. (Ex. 5, p. 14). The DentaQuest orthodontist calculated that the appellant's HLD score was 11. (Ex. 5, p. 14). For that reason, MassHealth denied the request for comprehensive orthodontic services. (Ex. 1; Ex. 5, pp. 3-5).

The MassHealth representative agreed with the initial DentaQuest orthodontist/reviewer that the appellant did not have an auto-qualifying condition. The MassHealth representative stated that based on his examination of the materials submitted, the appellant had an HLD score of 6. The MassHealth representative stated that in order for MassHealth to pay for comprehensive orthodontic treatment, the appellant would have had to have an auto-qualifying condition or an HLD score of 22 or above. Both the MassHealth representative and the DentaQuest reviewer found no auto-qualifying condition and determined that the appellant's HLD score was under 22.

The appellant's mother stated that she was confused because the appellant's orthodontist *did* determine that the appellant had an HLD score exceeding 22 and did have two auto-qualifying conditions. The MassHealth representative stated that ultimately, MassHealth *via* the DentaQuest reviewers, has the last say concerning whether the appellant is eligible for treatment. The MassHealth representative stated that as long as the appellant is on MassHealth, she can re-submit requests for orthodontic treatment every six months until she turns 21.

The appellant's mother stated that she is concerned because the appellant has now been denied two times. The appellant's HLD numbers have increased since the first time and her condition may be more difficult to reverse in the future. The appellant's father, who did not get braces while he was young, has teeth that protrude significantly. The appellant also gets bullied for her teeth at school.

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<sup>1</sup> There is a third way to become eligible for comprehensive orthodontic treatment, through the submission of a medical necessity narrative. (See Note 2 below). The treating orthodontist, however, stated that no such narrative would be submitted. (See Ex. 5, p. 10).

## Findings of Fact

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

1. The appellant is an individual under the age of 21. (Ex 5 p. 3).
2. The appellant's treating orthodontist submitted a PA request for comprehensive orthodontic treatment, including relevant forms, photographs, and x-rays on June 8, 2022. (Ex. 5, pp. 3, 8-15).
3. In the HLD form the treating orthodontist indicated that the appellant had two autoqualifying conditions. (Ex. 5, p. 9).
4. The treating orthodontist also determined that the appellant had an HLD score of 22. (Ex. 5, p. 9).
5. A DentaQuest orthodontist determined that the appellant did not have any auto-qualifying conditions. (Ex. 5, p. 14).
6. The DentaQuest orthodontist calculated that the appellant's HLD score was 11. (Ex. 5, p. 14).
7. For that reason, MassHealth issued a determination on June 9, 2022, denying the request for comprehensive orthodontic treatment. (Ex. 1; Ex. 5, pp. 3-5).
8. The MassHealth representative is a licensed orthodontist. (Testimony of the MassHealth representative).
9. After examining the appellant's x-ray's and photographs, the MassHealth representative determined that the appellant did not have an auto-qualifying condition and had an HLD score of 6. (Testimony of the MassHealth representative).

## Analysis and Conclusions of Law

130 CMR 420.431(B)(3) defines comprehensive orthodontic treatment as follows:

Comprehensive Orthodontic Treatment. Comprehensive orthodontic treatment includes a coordinated diagnosis and treatment leading to the improvement of a member's craniofacial dysfunction and/or dentofacial deformity which may include anatomical and/or functional relationship. Treatment may utilize fixed and/or removable orthodontic appliances and may also include functional and/or orthopedic appliances. Comprehensive orthodontics may incorporate treatment phases including adjunctive procedures to facilitate care focusing on specific objectives at various stages of dentofacial development. Comprehensive orthodontic treatment includes the transitional and adult dentition.

130 CMR 420.431(C)(3) describes the eligibility requirements for comprehensive orthodontic treatment,

as follows:

(3) Comprehensive Orthodontics. 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...

The MassHealth agency pays for the office visit, radiographs and a record fee of the preorthodontic treatment examination (alternative billing to a contract fee) when the MassHealth agency denies a request for prior authorization for comprehensive orthodontic treatment or when the member terminates the planned treatment. The payment for a pre-orthodontic treatment consultation as a separate procedure does not include models or photographic prints. The MassHealth agency may request additional consultation for any orthodontic procedure. Payment for comprehensive orthodontic treatment is inclusive of initial placement, and insertion and any adjustments (treatment visits) occurring in the calendar month of insertion of the orthodontic fixed and removable appliances (for example: rapid palatal expansion (RPE) or head gear), and records. Comprehensive orthodontic treatment may occur in phases, with the anticipation that full banding must occur during the treatment period. The payment for comprehensive orthodontic treatment covers a maximum period of three (3) calendar years. The MassHealth agency pays for orthodontic treatment as long as the member remains eligible for MassHealth, if initial placement and insertion of fixed or removable orthodontic appliances begins before the member reaches age 21...

Appendix D of the MassHealth Dental Manual is the Authorization Form for Comprehensive Orthodontic Treatment, MassHealth Handicapping Labio-Lingual Deviations Index, 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 also approves prior authorization requests for comprehensive orthodontic treatment when the member has one of the “auto qualifying” conditions described by MassHealth in the HLD Index.<sup>2</sup>

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<sup>2</sup> Appendix D also gives the treating orthodontist the opportunity to submit a medical necessity narrative, and contains instructions on how to do so, which state 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 skeletal 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;

The record shows by the preponderance of the evidence that the appellant does not qualify for comprehensive orthodontic treatment. The treating orthodontist asserted that the appellant had two auto-qualifying conditions as well as an HLD score of 22. The first DentaQuest orthodontist calculated an HLD score of 11. The MassHealth representative testified that he scored it at 6. Neither the first DentaQuest orthodontist nor the MassHealth representative discerned any auto-qualifying condition. The weight of the evidence therefore does not currently support approving orthodontic treatment.

For the above stated reasons, the appeal is DENIED.

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- iv. a diagnosed speech or language pathology caused by the patient's malocclusion; or
  - v. a diagnosed condition caused by the overall severity of the patient's malocclusion.

Providers may submit a medical necessity narrative (along with the required completed HLD) in any case where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion. Providers must submit this narrative in cases where the patient does not have an autoqualifying condition or meet the threshold score on the HLD, but where, in the professional judgment of the requesting provider and any other involved clinician(s), comprehensive orthodontic treatment is medically necessary to treat a handicapping malocclusion.

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

- 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 dietitian, 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 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 medical necessity narrative must be signed and dated by the requesting provider and submitted on the office letterhead of the provider. If applicable, any supporting documentation from the other involved clinician(s) must also be signed and dated by such clinician(s), and appear on office letterhead of such clinician(s). The requesting provider is responsible for coordinating with the other involved clinician(s) and is responsible for compiling and submitting any supporting documentation furnished by other involved clinician(s) along with the medical necessity narrative.

## 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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Scott Bernard  
Hearing Officer  
Board of Hearings

cc:

MassHealth Representative: DentaQuest 2, MA